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CONTROLS OR COMPETITION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

SYMPOSIUM ON THE ECONOMIC, SOCIAL AND POLITICAL
EFFECTS OF ECONOMIC CONCENTRATION

Pursuant to S. Res. 32
SECTION 4

JANUARY 18, 19, 20, AND 21, 1972

Printed for the use of the Committee on the Judiciary



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CONTROLS OR COMPETITION

TUESDAY, JANUARY 18, 1972

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:40 a.m., in room 318, Old Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senators Hart, Hruska, and Thurmond.

Also present: Charles E. Bangert, general counsel; Dr. Walter S. Measday, economist; David D. Martin, chief economist, Arthur Anderson, economist; Peter N. Chumbris, chief counsel for the minority; Kirklev S. Coulter, economist for the minority; Patricia Bario, editorial director; and Janice Williams, clerk.

Senator HART. The committee will be in order.

It will come as no surprise to Senator Gore, nor to Dr. Mueller, that while you guests represent all the talent that does not deter Senators from making opening statements. But this time mine is, I hope, by all definition, a brief one.

The hearings that we open this morning are entitled Controls or Competition. The hearings open at a period when Government control over our economy reaches further than has ever been the case in a period other than one of declared war.

Our hearings are not to argue whether these controls have been needed to slow unemployment or inflation. What I hope would be the issue that we might get some understanding on is how we got into this situation and what changes should be made to avoid having varying kinds of wage, and price controls with us for years to come.

That fiscal and monetary controls can contain inflation and unemployment in our present economic structure is a theory that has been tested and in the minds of many it has failed. Many economists tell us this is not because the fiscal and monetary theories are invalid but that they need a competitive economy if they are going to work.

This subcommittee—and now the administration—has suggested for some time that although we bill ourselves as a free enterprise Nation, this is less than entirely true. Because our economy is dominated by concentrated industries which do not respond to demand as competitive enterprises, instead of the consumer being the boss, he has ended up being bossed by these industries which, while flying under the banner of free competitive enterprises, are not actually competitive or fully competitive.

With the background of lengthy study of administered prices and economic concentration that this subcommittee has and with the pres-

ent demonstration that fiscal and monetary policies are not working at this time, it will come as no surprise that I am of the opinion that we must find ways to inject competition into our economy if we are to rid ourselves of government wage and price controls.

As I have explained before, the subcommittee staff is now drafting deconcentration legislation; and we are still wrestling with various routes which might or might not be followed.

Therefore, several of the participants of this symposium have been asked here especially to suggest the best manner by which to do this. True, we will be reploving some of the same economic ground which we have plowed before as a prelude, this time, to discussing possible solutions.

But with this symposium we will—for the first time—tackle two ill effects of concentration of economic power which are not only new to us but I am sure much harder to delineate than the statistics.

These are the political and social impacts of economic concentration.

We hear today that big industry, big unions, and big professional groups have amassed such power that they have become, in fact, private governments which too often rule the public government instead of vice versa.

Now, to the degree that this is true, any efforts to change the structure of the private governments may be frustrated by the very power we seek to lessen. It is important to understand just how formidable this hurdle is and to hopefully prepare ourselves to tackle it.

On the social side, we are interested not only in the impact that massing of economic power has on society in general—or on particular communities—but on the day-by-day lives of individuals. The antitrust laws were designed not only to maintain competition in particular markets but also to preserve a decentralized, democratic society with all the encouragement of individualism that this can bring.

It would appear to me a duty of this subcommittee to determine to what extent this facet of the antitrust laws has been frustrated and if amendments to the laws are necessary to handle this problem.

Now, that is an assignment of rather broad reach. We do not hope to answer all of these questions in their entirety with this 4-day symposium. But we hope to get a sound start—a good start—and if the excellence of those who are willing to make up this symposium is the measure of success, it will be a magnificent success, because those who have joined to help us better understand the problem are men of marked excellence and for their willingness to come, all of us are very grateful.

Senator HRUSKA?

Senator HRUSKA. I have a statement here, Mr. Chairman, that I shall ask permission to insert in the record. Only briefly I want to say that prior to the opening of these hearings I reviewed some of the testimony given before the Banking and Currency Committee and also the Joint Economic Committee. I am a bit concerned in hearings like this called in times like this about the factor of emotionalism, and 1972 being a year divisible by four, perhaps by the political considerations as well.

That is nothing to condemn that type of attitude. We are a political Nation. We are a political government. And that all goes hand in hand.

But to try to seek and to develop a remedy for long existing problems and structures and procedures, problems and procedures that have pre-

vailed for decades and decades and decades, upon the basis of a phase II, following phase I of a temporary situation, would call for a little bit of caution.

Now, this is nothing new. For example, the Chairman during the Joint Economic Committee hearing stated, if I may be permitted to read not out of context but only in part, "At this time of decision on measures profoundly affecting the economic organization of our society, should not we ask, is restructuring of concentrated markets really too radical a step," which indicates to me that the inquiry is, the thrust of the inquiry is to go at the very basis and all of the roots of a very complicated and long developed economic and social system.

There is nothing new in considering this subject. Dr. Walter Adams, way back in 1949, proposed a bill before Congressman Celler's committee. He stated that he wanted to explore the feasibility of adapting a statute which should emphasize corporate reorganization which would not only lessen unwarranted concentration of economic power but it would also enhance corporate efficiency. But Dr. Adams was heard to say that this proposal did not attract much attention in the intervening years, and we know that it has not.

We can go way back to the time of our late revered and distinguished Senator from Wyoming, Senator O'Mahoney, when he was head of the TNEC, Temporary National Economic Commission, in the late 1930's and there, too, as the testimony indicated, similar proposals were made and they got virtually nowhere, not because they did not have some merit, perhaps, but maybe the temper of the Congress and of the administration, Republican or Democrat, that was in power, and some of us politicians backed away from getting too radical. We backed away from getting too visionary or idealistic, if we can apply those two terms.

In 1964 we embarked in this subcommittee upon a series of hearings dealing with economic concentration. At that time our ranking minority member of this committee, Senator Dirksen, and I submitted a joint opening statement and I ask consent that that be set forth in the record.

What we said then is of greater significance today because we are trying to curtail an inflationary trend that had started because of the Vietnam crisis, to reduce the number of unemployed in this country that was caused by necessary monetary and fiscal policies to curtail that inflation, and to restore the confidence of the consumer, and the businessman, to spend at a greater pace than they have been spending because of the conditions prevailing.

Mr. Chairman, from a perusal of the list of witnesses, one must be aware of previous writings and comments from which it is safe to say that some of the witnesses at that time were devil-bent to break up certain companies that they believed to be in the high concentration class. However, some of the witnesses have noted in the most recent hearings on President Nixon's new economic program, and some of the witnesses who will appear at these hearings will state, that the question of concentration of economic power is one that is attributable to big government, big business, and big labor, rather than to big business alone. There are several other issues, such as the impact of deconcentration on our labor market in this country, on economies of scale, on services and prices afforded the consumers, and the loss of taxes and

the struggle for markets abroad while foreign countries' corporations are increasing their concentration.

I hope when we go into this subject again in full scale that we can consider each of these topics.

Only one further comment with reference to phase I and phase II. One of our colleagues in the other body, a Member of Congress, related an experience that he had last summer when he was summoned by some of the labor leaders of his State to attend a conference, a small conference, of labor representatives. He got there to find about a couple of dozen of the labor union leaders from his State and it is not one of the most populous States nor one of the most sparsely settled States. And they berated him no end for the President's Order of August 15 because they said it was highly unfair and unjust and harsh and precipitous and out of order. He listened patiently and finally he leaned back in his chair to say, "This is a new experience for me." He pointed to a filing cabinet in the corner of his office and he said, "That is where I keep your journals and your newspapers and your bulletins and your letters to me. I have a special cabinet for people like you and I refer to it often. And I referred to it recently enough to remember that it is not too many weeks ago that George Meany and many others and your organization as well implored the President to impose price and wage controls, but now here you are telling me that it is all wrong and you are berating me.

"How do you explain? Which side are you going to really settle on?" And the leader of the delegation then leaned back and he said, "Well, of course, we urged him to do it but he doublecrossed us. We never thought he would take the step."

Now, that may have some value because as we go on, I think we will find that 1972 is a year that is divisible by four and, therefore, highly charged with what we like to call the preliminary campaign activities for the selection of a President and Vice President.

OPENING STATEMENT BY SENATOR ROMAN L. HRUSKA

Senator HRUSKA. Mr. Chairman, as we embark on this first day of the second session of the 92d Congress in a new series of hearings on the subject matter of "Controls or Competition. Alternatives To Phase II", I would make a few comments. In preparing myself for these hearings, I have examined a good cross section of the statements of the witnesses and the colloquies before the Joint Economic Committee on the President's new economic program and before the Senate Banking Committee on S. 2712—the economic stabilization bill.

Although I would take issue with various statements made during the course of the above mentioned hearings, the hearings before both congressional groups provided forums for a cross section of views and philosophies of outstanding witnesses.

From my examination of this cross section of views and philosophies, I believe that the overwhelming majority of witnesses testified that the controls enunciated under phase II of the President's economic program should be of limited duration.

Mr. Chairman, I am concerned in these hearings that the emotional aspect of being under the controls set forth in phase II could lead to

a set of hearings dealing with the subject of concentration of economic power influenced by emotionalism rather than a more calm atmosphere that reigned during our earlier hearings on concentration of economic power during the 1960's.

If I may quote for the chairman's statement when you appeared on September 21, 1971, before the Joint Economic Committee you stated as follows:

... Trade is restrained in far too many markets by combinations in the form of a few big firms sharing power to control prices. Such private price control already violates the spirit of the Sherman Act. To enforce the law vigorously—to make antitrust more than a charade—has been viewed as too radical a policy or too tough politically as we really do not know what may happen. We may go from the frying pan into the fire.

At this time of decision on measures profoundly affecting the economic organization of our society should not we ask: Is restructuring of concentrated markets really too radical a step?

Mr. Chairman, this issue of restructuring of concentrated industries has been raised as far back as 1949 in testimony before the Celler Judiciary Committee in the House of Representatives. Dr. Walter Adams, professor of economics, Michigan State University, in his appearance before this subcommittee in 1964 related to the draft of a bill that he submitted to the Celler committee in 1949. Dr. Adams also stated to this subcommittee that it explore the feasibility of adopting a statute which should emphasize corporate reorganization which, would not only lessen unwarranted concentrations of economic power, but it would also enhance corporate efficiency. And Dr. Adams admitted that such legislation gained very little attention over the years.

Hence, Mr. Chairman, the subject matter of restructuring concentrated industries is not new, and we should proceed with caution.

Mr. Chairman, I have a further concern at this time. When this subcommittee began its hearings on economic concentration on July 1, 1964, the distinguished minority leader at that time, Senator Everett McKinley Dirksen, and I submitted an opening statement which stated in part as follows:

... But we wish to be cooperative. If there is a demonstrated requirement for the limitation of economic concentration, if certain mergers are unhealthy or unwarranted from the standpoint of the general economic welfare, if existing legislation is inadequate to meet these problems, we are prepared to take appropriate remedial action.

But if, as seems much more likely, we are being committed to 2 years chasing wild geese, we are not enthusiastic at the prospect.

... It is relatively easy in hearings such as these to cast suspicion on the operation of our economic system. It is easy to create an atmosphere of doubt and mistrust.

We have suffered such aberrations from time to time within the activities of this committee in very recent times. It is easy to pander to prejudice and fear. It is easy to weaken public confidence in the essentials of the private enterprise system.

It is easy, but it is not necessarily in the public interest.

What we said then is of greater significance today because we are trying to curtail an inflationary trend that had started because of the Vietnam crises; to reduce the number of unemployed in this country that was caused by necessary monetary and fiscal policies to curtail that inflation; and to restore the confidence of the consumer and the businessman to spend at a greater pace than they have been spending because of the above conditions.

Thus, great care must be exercised during the course of these hearings not to weaken the public confidence in the essentials of the private enterprise system noted above, but rather to further the public confidence of both the consumer and the businessman and the union and non-union workers so that the objectives of the President's new economic program will reach the highest of levels, and that this country will enjoy full benefits there from.

Mr. Chairman, from a perusal of the list of witnesses one must be aware of previous writings and comments. It is safe to say that some of the witnesses at that time were devil-bent to break-up certain companies that they believe to be in the high concentration class.

However, some of the witnesses have noted in the most recent hearings on President Nixon's new economic program, and, some of the witnesses who will appear at these hearings will state that the question of concentration of economic power is one that is attributable to big government, big business, and big labor, rather than to big business alone.

Mr. Chairman, there are several other issues, such as the impact of deconcentration on our labor market in this country, on economies of scale, on the services and prices afforded the consumers, on the loss of taxes, and on the struggle for market abroad while foreign countries' corporations are increasing their concentrations.

I hope that, if we must go into this subject again, that we do so fairly and objectively.

Senator HART. This is not to extend the debate, but we tried to have these hearings last year. But we were told by the ranking minority member that we ought to wait because of the approaching end of the session.

Senator HRUSKA. I am in favor of short presidential campaigns and not to have them start in 1971.

Senator HART. I do not know what the odds makers would give us, as to whether we are going to really face the consequences of a fact of economic life, namely, that there is a high degree of concentration, whether we are more apt to summon the courage to do something about it in a presidential year or nonpresidential year, and I am sure the odds makers would tell us that given the structure of our political society, that we are not going to do anything until it is too late.

So if the intensity of the politics of the moment does no more than attract greater public interest in the subject that we are going to discuss, then that would be a plus. If it fogs us all up, then we will be missing an opportunity.

Let us see if we can explain the format here. We would hope that each of our panelists would make an opening statement, limited to about 10 minutes. To give some guidance as to the time I will ask the committee clerk to signal at the end of about 9 minutes. If we are able to stay within reasonable reach of the 10 minutes, that will give us what I would hope would be an adequate time for perhaps the more important and useful aspect of the meeting, namely, an exchange among the participants themselves.

Our plan is to adjourn at 1:30 p.m. and at an appropriate time, perhaps around 11 a.m., to take a brief recess.

One last warning. The reporter is recording this session and we would hope to give her a fighting chance to pick up your responses and reactions as we go along.

The temptation, of course, is very strong in welcoming our first witness to describe for the record the services to this Nation which he has given over a period of 14 years in the House of Representatives and 18 years in the U.S. Senate. All of us in this room are mindful of that. I would just voice a very personal greeting to Senator Gore, a welcome. I guess this is the first time I have had a chance to put on the record my regret that he appears as a witness and not as a member of the Senate.

Senator, you go ahead.

STATEMENT OF HON. ALBERT GORE, FORMER U.S. SENATOR FROM THE STATE OF TENNESSEE

MR. GORE. Thank you, Senator Hart and Senator Hruska. It is a pleasure and an honor to appear before this committee. This is my first appearance before a Senate committee since I was promoted to private life, thanks to the wishes on the part of the people of Tennessee.

I have abjured lobbying for private clients with my former colleagues, but like millions of Americans, I now and then feel the urge to advise Congress on what should be done. I had managed to resist until the receipt of your invitation, and if I exhibit a certain ebullience this morning, you will know that it flows from a reservoir of concern about injustices, inequities, and dangers as I perceive them in our society.

Even so, I assure you, Senator Hruska, that I shall attempt to be even-handed, whatever that term means. I intend to imply nonpartisan. Indeed, I shall adopt the attitude that seems current in Washington—except on the occasional visits of our presidential candidates—that everything is just fine in Washington and it is sure to get worse unless we do something right away.

Members of this committee I am sure will disagree with this assessment in one way or another, depending upon individual points of view.

Ours, as the colloquy between the two distinguished Senators has just indicated, is a political economy, and this is especially so in a presidential election year. Now, this is not to say that one party is more political than the other. It was the Democratic majority in Congress that passed the basic price and wage control power legislation in May 1970 for which I voted. Thereafter, as inflation progressed and interest rates soared, the politically expedient thing for Democrats to do, and which they did, was to blame the President again and again for not using the powers that Congress had granted. They felt perfectly safe in doing this, as the illustration that Senator Hruska indicates, for the President had not only habitually denounced governmental regimentation and stifling redtape that would choke free enterprise but he had said publicly as he signed the bill into law that he would not use the powers thus conveyed.

The administration tried many of the textbook rules and remedies—fiscal cutbacks, tight money, and high interest rates, even planned unemployment. By last August, these policies had miserably failed to

stop inflation. To the contrary, high interest rates had increased the cost of everything that anyone bought, built or borrowed.

And why the economists in the administration could not foresee this, I am utterly unable to perceive.

On top of this, the major steel companies increased steel prices across the board by 8 percent in a remarkable concert of action which should attract the interest of both this honorable committee and the Department of Justice. Increases on products representing about half the tonnage were effective immediately, and the remainder to go into effect over the following 6 months. It was widely believed at the time that this combination of political finesse, utter failure of the orthodox methods, and the inflation-propelling steel price increase, which would be pyramided throughout the economy and which would worsen our already rapidly deteriorating balance-of-payments position, moved the President to his phase I orders in mid-August 1971.

Your committee has set out to examine the actions of the past 6 months, their consequences, and the future of our economy. I wish to congratulate you upon your undertaking, and to wish you well.

The number of decisions under phase II may be too small for a final judgment at this time. Still, there are disturbing indications that hard-nosed rejections and trimming of requests are being felt mostly by workers and by companies with little market power or political influence, while firms with lots of both market power and political clout are getting close to or all of what they want.

The news release, for instance, of the Price Commission just before Christmas (Decision List No. 21, December 23, and Prenotification Report No. 25, December 21) are instructive in this respect. The Commission had received roughly 1,800 price increase petitions during its first 6 weeks of existence. It had acted on 234, or one-eighth of the total; the fact that the Commission had been unable to act on seven-eighths of the petitions submitted may well be the most potent anti-inflationary weapon we have so far developed.

In other words, the very administrative mechanism for price control might in itself restrain, at least temporarily, price increases. Trying to obtain Price Commission approval for a price increase during phase II involves a terrific bottleneck. The staff is small, and the delays in granting approvals may help keep prices down for a while. I must say that reliance on bureaucratic inefficiency as a control device is a novel idea, but this looms as a possible tactic. If so, Mr. Chairman, trouble is ahead. Confidence in government would be further undermined by such tactics. This and the consequent further distortion of the free market mechanism will do positive harm to the public interest.

On the other hand, the actions which the Commission did take are also instructive. Of the 234 decisions, only eight were rejections of increases and 226 (or 96 percent) granted the requested increases in whole or in part. The first price increase rejected was that of Bassett Industries; the furniture maker had requested a 1.8 percent increase, well within the Presidential guideline, and this was turned down.

But let us take a look at the treatment of the steel industry for the other extreme. The Price Commission has now agreed to let the major steel companies raise prices 7 to 8 percent on all products caught in the freeze.

In other words, the toughness of the Price Commission has been demonstrated by turning down a competitive furniture manufacturer's request for a modest increase of 1.8 percent. At the same time the Commission has demonstrated its reasonableness by permitting the major steel companies virtually to complete the largest price boost in their history. When we also look at the sizable increases given to automobile companies and firms in other powerful concentrated industries, we can begin to wonder what the possible track record of the Price Commission will be. At the very least, it is difficult to take hope from the decisions and the record thus far.

Admittedly, this is only the first lap of the race, and the track officials' signals are pretty confused. The impression most people got from the original starter's fanfare was that inflation was to be immediately chopped down to 2.5 percent a year. More recently the line from the White House has been, "Well, we only meant that we expect to get the annual rate of inflation down to 2.5 percent by the end of 1972." So far, I believe the only real check to inflation has been the inability of a 2-day-a-week Price Commission to process more than a fraction of the requests which have been received, which, as I have said, makes one wonder if a slowdown on decisions has become a deliberate tactic. Widespread disregard of the price ceilings would soon be the price to pay for this.

Phase II offers an appearance of control, Mr. Chairman, which so far has been acceptable, if not popular, with the general public. At the same time, it avoids the substance of effective control over either prices and wages or interest rates.

The fact is that neither the President nor the Congress has been willing to take the really hard steps which would check the drift of our economy away from free enterprise into a type of controlled private collectivism. These steps involve economic restructuring of some of our basic industries so that competitive free enterprise, which is rapidly vanishing in our economy, can function effectively in the public interest.

The annual reports of the Council of Economic Advisers traditionally include a short paragraph paying lipservice, but nothing more, to antitrust principles. A year ago, however, the Council included a more extensive discussion of the problem, entitled "Why Is Inflation So Stubborn?" Here the Council conceded—cautiously, it is true—that an answer might be found in the growing concentration of economic power in the economy to which Senator Hruska referred in his able comments. The fiscal measures to reduce unemployment might be dissipated in price increases which could simply increase unemployment with little noticeable effect on inflation.

If this analysis is correct, we can no longer rely, Mr. Chairman, upon traditional fiscal and monetary policies to keep the U.S. economy on an even keel. This is, in my view, a summary sentence.

Other policies should be considered. I am not sure what they should be and I am glad this committee is examining the subject and I must take exception to my distinguished friend, Senator Hruska, that this cannot be done in a presidential election year. This is a crucible for the testing of public acceptance of the conditions which we face and possible remedies for those conditions.

A presidential election year should lend itself to an intense examination of the problems and of possible cures of those problems.

One method is direct economic controls and planning, industry-by-industry, with the ultimate abandonment of free enterprise as we know it. An alternative is to reduce sharply the concentration of economic power, and these are two strongly presented alternatives.

In 1970, the 100 largest manufacturing corporations held about one-half of all assets in America in manufacturing; the 200 largest had over 60 percent. Is this undue concentration? Although comparable data are not available, it is evident that the same, if not worse, situation prevails in finance and insurance. It may well be that other organizations have developed power beyond that necessary to insure reasonable working conditions and equitable treatment for their members, and exercised this power in a manner contrary to the spirit of the antitrust laws. The American Medical Association, which has monopolized the supply of health services so effectively that medical care has been the most inflationary sector of the economy over the past decade, is certainly a case in point.

Reduction of economic power may be the only avenue open to restore the type of price and product competition which is essential to the preservation of economic democracy, and of political democracy, in the United States. But it involves some very tough decisions. I am not talking about a firm antitrust policy toward future mergers or price conspiracies, but about a positive policy of reducing present concentrations of power by fragmenting the organizations large enough to wield monopoly power.

There are formidable obstacles to such a policy, of course. One is the traditional economic argument of "economies of scale," which has been used to justify ever-increasing business size since the day of Adam Smith when he talked about his pen factory. We cannot break up big corporations without sacrificing efficiency, runs this argument. But we must break up monopoly if free enterprise is to survive. The hard evidence for "economies of scale" in many industries runs well behind the rhetoric attesting to their existence. Nevertheless, there are some industries where this argument must be taken into consideration.

In such cases, other alternatives are open. One is nationalization and operation in the public interest. The Congress has recently taken a very strong step in this direction with respect to railroads. Another would retain private ownership, but subject to strict public utility-type regulation to ensure that the economic power inherent in concentrated industries is not exercised against consumers. That, too, has its limitations, as we have seen with the recent action of the Federal Power Commission with respect to the telephone monopoly.

Still another alternative would be the establishment and maintenance of a competitive industry structure in such cases, with a deliberate sacrifice of some economies of scale. This bit of economic heresy, as some would put it, might be justified within the larger goal of preserving economic and political freedom. Indeed, it might not even be economic heresy. It is not in my view. A truly competitive industry might very well deliver its products to consumers at lower prices than would the same industry with a monopolistic structure dominated by one or two giant companies, even if the larger firms were more efficient in terms of resource use. This problem, Mr. Chairman,

is immediately at hand in the instant of nuclear power, the only immediate answer to the energy crisis that faces our country.

The major obstacle to vigorous programs to restore competition is, of course, political. No one who has ever served in high elective office can deny the political and personal power of a handful of large contributors. With economic power goes political power, and the escalation of campaign costs in recent years has vastly concentrated this political power. A Congressman, a Senator, or a President can be forgiven for believing that an attack against economic power is a most effective form of political suicide. This view might be wrong; the voters might rally behind a man who is bold enough to take such a stand. Many will, but the risks, as I can testify, of taking the chance are great. I am not at all sure our system as we know it can long withstand the corruption of money in politics. It reeks with it. I cite the fact that—well, I said I would not be partisan. So excuse me. But this obstacle can be overcome. What is needed here is to outlaw entirely—I mean entirely—the use of private money in our national elections whether by the candidates or by their supporters or by their opponents. Mr. Chairman, when the integrity and the efficacy of our whole free way of life for more than 200 million people depends upon so few elected officials—the President, the Vice President, and the Congress—the cost of reasonable and disciplined election campaigns would be a small price to pay indeed, to free the elective process from the corruption that now envelops election campaigns. Not only economic democracy but political democracy as well is at stake.

Thank you.

Senator HART. Thank you, Senator.

I indicated that we would hear the participants and then have exchanges and questions. I certainly want to impose that limitation on myself but I did not intend it to be imposed on Senator Hruska. Senator Hruska?

Senator HRUSKA. The wisdom of the chairman has prevailed in my thinking as far as his format is concerned.

Senator HART. Next on this list of witnesses we welcome one from whom we have heard on other occasions, always to our benefit. He was at that time the spokesman for a point of view at the Federal Trade Commission, and now is the William F. Vilas research professor and the chairman of the agricultural economics department of the University of Wisconsin.

Dr. Mueller, when he was in the Commission, supervised the basic studies on economic concentration which have been so helpful to this subcommittee and to others concerned in the field.

Doctor, we welcome you again.

STATEMENT OF DR. WILLARD MUELLER, WILLIAM F. VILAS, RESEARCH PROFESSOR, AND CHAIRMAN OF AGRICULTURAL ECONOMICS DEPARTMENT, UNIVERSITY OF WISCONSIN

Dr. MUELLER. Thank you, Mr. Chairman. Although it is always a pleasure to appear before this committee, I am particularly pleased to participate in the series of hearings you are commanding today.

I should say I will greatly abbreviate my prepared statement.

Senator HART. Let me enter the order that prepared statements will be printed in the record in full as though given, if there is a summary.

Dr. MUELLER. Historians may well record that during 1969-71 the free market was given its last chance to prove itself, and it failed the test. Shortly after his inauguration, President Nixon made a historic pledge: He would bring about price stability without increasing significantly unemployment, and he would accomplish this victory without any Government intervention in the marketplace.

As America's No. 1 football fan, he laid out his game plan for achieving this victory. The plan was simple: Retard the growth in aggregate demand by balancing the budget and curtailing the money supply, and free market forces would do the rest. As the growth in aggregate demand slowed, no longer would too few goods be chasing too much money. Then prices would stop rising and the inflation would be brought under control. All this would be accomplished after a few awkward months during which high interest rates would cause some adjustment pains, slackening demand would cause a mild slowdown in production and business profits, and unemployment would rise modestly—perhaps to just over 4 percent.

The adjustment process predicted by Nixon's game plan rested on an heroic assumption: Businessmen would respond to slackening demand by not raising prices or, better still, by reducing prices, and labor would settle for smaller wage increases as prices stopped skyrocketing and the demand for labor slackened modestly. President Nixon translated into policy his faith in free market forces by stating publicly just 6 days after his inauguration, and periodically thereafter, that he did not intend to interfere with particular price and wage decisions, as had been done during the 1960's. And, indeed, for 27 months the Office of the President did not interfere with a single price or wage decision, except for a few instances in the construction industry.

Seldom in our history has a President put an economic theory to such a rigorous and persistent test, and never have the economic costs of failure been higher. It is for this reason, as I said at the outset, that our experience during 1969-71 may well mark a critical turning point in American economic history. Time does not permit review of the game plan in action.

By now, however, the unfortunate sequence of events is quite familiar to most Americans. But quite clearly the game plan did not lead to the end run around rising prices and high unemployment predicted by the President's economic advisers and indeed, on August 15 the President acknowledged that the plan had failed and unveiled an entirely new economic plan. It is this plan, this state, that perhaps marks this turning point in our economic history.

Where did the original plan go wrong? The fatal flaw in the plan was the fundamental assumption that free market forces were sufficiently powerful to discipline key price and wage decisionmakers in the economy. Were market forces truly competitive in all industries the overall price level would have become moderating shortly after fiscal and monetary policy had contracted aggregate demand. In such an economy, inflation could only be caused by excess demand or so-called demand pull inflation, but where markets are not competitive enough we may have seller inflation.

Although many economists deluded themselves for many years, by August 15 of last year most, including those conceiving the President's original plan, agreed that the existence and use of market power is a major source of inflation in contemporary America and, significantly, that such power creates inflationary pressures even in the absence of strong demand-pull inflation.

Indeed, if we try to control seller or cost-push inflation with monetary and fiscal policies alone we inevitably end up with high levels of unemployment; hence, the only way we can reduce unemployment to low levels without inflation is if we restrain the use of discretionary economic power.

What then, are the alternative methods of dealing with the problem of market power caused inflation? As I see it, they fall into four categories. I begin with the assumption that the first alternative, comprehensive direct wage and price controls, is an unnecessary and unacceptable solution except under the most pressing circumstances.

The second alternative, the dissipation of existing market power, is an essentially long-run approach and, therefore, is not an adequate solution standing alone. But as I will emphasize shortly, it is a promising and essential ingredient in a comprehensive approach to the problem of seller inflation.

A third alternative is a kind of guidepost policy we followed in the 1960's. But insofar as this approach is merely a replay of that policy, in my view it is not a viable alternative for the future.

First, in the past, the policy functioned without a clear legislative mandate, thus depending on the whims of each occupant of the White House or his staff.

Second, in practice the guideposts were applied too arbitrarily and inconsistently. They were too much of a hit or miss operation and as a result a few industries received most of the attention.

Third, the policy focused primarily on wages and prices. By neglecting profits, salaries, and other kinds of professional incomes, the policy was inherently inequitable.

Fourth, except for the last years of the Johnson administration, scant attention was paid to other measures that might supplement guidepost policy in restraining the use of market power. As a result, an unnecessarily heavy burden was placed on guidepost policy.

For the above reasons the simple jawboning approach of the 1960's will not prove adequate for the future.

What, then, are the essential ingredients of a more viable prices and incomes policy?

In all that follows I shall assume that every effort will be made to assume an optimum mix of monetary and fiscal policies. Other policies cannot serve as a substitute for appropriate policies that match overall demand with supply and that provide an expansionary environment for economic growth.

To begin, an explicit legislative mandate should be given to any future prices and incomes policy. The issues involved are too important to be left solely to the discretion of the temporary occupants of the White House. This mandate should emphasize the incomes aspect of the policy and not simply prices and wages. In the future, profits, salaries, and other professional income must also be considered. I am, of course, talking about matters that will affect the redistribution

of income, a subject that received scant attention even in polite liberal circles during the 1960's. Something must be done to truly reform our discriminatory tax structure. Laborers and other salaried employees simply cannot be expected to go along with a policy asking them to exercise restraint in the use of any power they may have when so many others enjoy vast incomes on which they pay only small taxes. Moreover, an incomes policy cannot work if some industries enjoy persistently high profits, a subject to which I will return shortly.

What sort of mechanism should be created to implement this policy? Personally, I favor an independent agency created by the Congress. Its Members would be appointed by the President and confirmed by the Senate. The agency would systematically review wage and price decisions in those industries where labor and business have substantial discretionary power. I emphasize that the agency should not get involved in every wage and price decision of the country but rather restrict itself to areas where we have the problem of substantial market power.

It would probably be necessary to permit the agency to impose direct wage and price control in some industries but I would hope that it could rely primarily on the power of publicity in encouraging responsible behavior.

This is not to imply that sole or even primary reliance should be placed on a price and incomes policy of this sort. Rather, the congressional mandate authorizing such a policy should also make it clear that a coordinated approach be pursued to improve the basic functioning of our economy, including manpower policies, programs to promote competition, freer international trade, close surveillance and coordination of Government procurement policies to avoid unnecessary market disruptions, and special programs to deal with industries posing difficult problems in controlling inflation.

Time does not permit elaboration of these complementary programs. However, procompetition policy plays a central role among these and, therefore, receives special attention.

For example, President Johnson's Cabinet Committee on Price Stability concluded—and this was after the election of 1968—in its recommendations as to the way in which we could achieve noninflationary prosperity:

We recommend vigorous enforcement of the antitrust laws as essential for reducing further the inflationary effects of discretionary power. Only to the extent that we maintain effective market competition can we continue to place primary reliance on private decisionmakers in our quest for high employment, rapid economic growth and price stability.

It cannot be emphasized too strongly that the extent of Government involvement in price and wage decisions is directly related to the extent that competition restrains the discretionary power of key decisionmakers. We, therefore, have a choice. Either enlarge the area of competitive markets or enlarge the area of Government involvement in our business-pricing decisions.

Moreover, the extent of market power in business bears directly on the extent and use of power by labor. Market power in business begets market power in labor as well as encourages labor to make maximum use of such power. But perhaps even more importantly, where firms enjoy persistently exorbitant profits, as in the drug industry, such excess profits must be eliminated if we are to expect labor unions not

to exercise their power. It is not sufficient to argue, as so many have, that eliminating monopoly profits in a particular industry is not really important because it will not significantly increase incomes of others in the economy. And the reason I mention this is that I heard this argument used so often during the 1960's.

The critical point missed by this argument is that it simply is unreasonable to expect some persons in the economy to exercise restraint in the use of discretionary power unless we adopt an explicit national policy designed to place limits on the market power of all segments of the economy. Thus, increasing competition in an industry serves the dual purpose of reducing the discretionary power of those in industry and encouraging others in the economy to behave reasonably in using their powers.

On this point, some of the procedures followed by the recently created Price Commission to restrain the price behavior of firms with power raise some serious questions. As Senator Gore mentioned, the Commission set as its objectives the limitation of price increases to about 2 percent over the next year. To achieve this end, it frequently allows individual large firms to raise prices on all products by an average percentage. Reportedly the Price Commission has permitted 45 companies to increase their prices by an average of about two percent. This procedure is referred to as "term limit pricing".

For example, GE was permitted to increase prices by an average of 2 percent and United States Steel by an average of 3.6 percent. Seemingly this approach has the virtue of simplicity and flexibility. The Commission simply leaves it up to the business firm to decide which prices to increase.

But anyone familiar with American industrial structure knows that these large firms produce products sold in many different market structures. For example, some of GE's products are sold under near-monopoly conditions and others under quite competitive ones. But giving the individual firm freedom to decide which prices to increase, the Price Commission is granting a license to exercise market power wherever it is greatest.

As the New York Times recently reported, businessmen and the Price Commission are involved in "gamesmanship." It explained that:

The president of one of the nation's largest concerns said publicly that a price increase his company had been awarded fell within the guidelines. He conceded in private, however, that the broad percentage increase had given the concern a much higher increase when applied selectively to only some of the company's products.

Experience with phase II teaches several other lessons relevant to the subject of these hearings.

First, any program designed to deal with seller-induced inflation should carefully identify the products to be covered by the program. Specifically, it should focus on products where firms possess considerable discretionary power in contrast to the present program which often deals with all of the company's products, whether it is furniture, which is a highly competitive industry, or whether it is steel. They are treated similarly under the present program.

Second, the agency administering the program should be open to public scrutiny. There is an unfortunate asymmetry in this respect in the procedures of the Wage Board and the Price Commission. By

their very nature price increases are highly visible and easily measurable. On the other hand, many important operations of the Price Commission are cloaked in secrecy. The public is not permitted to view the cost and other data presented by companies, nor is there any information concerning which prices are being increased by companies like GE. There is a danger that the public is being misled into believing that whereas the Pay Board is having certain difficulties, which are well reported in the press because the press can readily follow the consequences of the Board's conduct, all is well within the Price Commission. Should the public later feel it has been deceived, it will lose confidence in the integrity of the Price Commission.

Finally, the current experience again illustrates the great difficulties inherent in any system of wage and price controls and, therefore, argues forcibly for keeping to a minimum the areas requiring controls.

To return to the theme of these hearings, competition or controls, I believe the issue is simply this: Either we enlarge the area where competition is sufficiently effective to limit pricing discretion of business firms or we must enlarge the area of price controls.

I offer these suggestions for making competition more effective.

Eighty years of experience with the Sherman Act should leave no question but that the traditional case-by-case approach followed by the antitrust agencies will not bring about sufficient industrial restructuring. Since World War II the antitrust agencies have brought few cases for restructuring industry and there is no reason to expect them to do better in the future. We will only get sufficient industrial restructuring if the Congress gives a new mandate to the antitrust agencies or creates a new agency.

This mandate should either specify particular industries requiring restructuring or specify the structural standards to be used in selecting the industries as was done by the Neal report. Industrial restructuring required to reinvigorate competition should not be viewed as a hostile attack on business or our market system. On the contrary, such actions should be viewed as therapy essential to the survival of competitive capitalism.

Second, I believe legislation should be enacted to prohibit practically all mergers among very large corporations and the acquisition of firms holding leading positions in concentrated industries. Such action will be procompetitive because it will encourage more firms to enter new industries by internal growth.

For a time it looked as though this administration would give the Supreme Court an opportunity to decide whether the Celler-Kefauver Act prohibited such mergers. Unfortunately, the Department of Justice has settled all of its important conglomerate cases with consent decrees, despite the fact that the *ITT-Grinnell* case was already before the Supreme Court. And whereas the FTC wrote several pioneering merging decisions in the sixties, it has brought no new conglomerate cases since 1968.

As a result, I fear we cannot rely on the antitrust agencies to act aggressively enough unless they are given a more explicit mandate by the Congress.

Finally, in view of the enormous impact that large corporations have on the economy, it is time they be recognized and treated as quasi-public institutions. Federal chartering is an appropriate first step.

Time does not permit the spelling out of the necessary ingredients of a Federal chartering statute but its chief thrust should be to make the operations of large corporations more visible and to place certain restraints on behavior.

In conclusion, as I mentioned at the outset, America is at a historic crossroad. It does indeed face a choice between competition or controls. Whether or not the market survives in the greater part of our economy will be determined not by technological imperatives but by public policy toward the achievements and retention of economic power. The ultimate choice between controls and competition will depend on whether or not the constituency of competitive capitalism can be enlarged. In the end it will be public attitudes toward the competitive system, not natural economic laws, that will determine its fate.

Thank you.

Senator HART. Thank you very much.

(Dr. Mueller's statement follows. Testimony resumes on p. 25.)

STATEMENT OF WILLARD F. MUELLER

CONTROLS OR COMPETITION?

Mr. Chairman and members of the Committee. Although it is always a pleasure to appear before this Committee, I am particularly pleased to participate in the series of hearings you are commencing today.

This Committee, more than any other governmental body, has focused the public's attention on the economic and other problems created by centralized economic power. Your hearings on Economic Concentration documented extensively how market power may result in excess profits, retard technological progress and, in other ways, misallocate economic resources. Although these aspects of market power are extremely important, and certainly deserve attention in their own right, they may well be eclipsed by the problem you are probing on your current hearings; namely, how may market power interfere with efforts to achieve high levels of employment and plant capacity utilization without inflation. The stakes involved are enormous. The increase in unemployment from 3.3 percent in early 1969 to current levels of about 6 percent has put over 2.5 million people out of work and reduced our annual gross national product by about \$100 billion. Clearly, anything contributing to economic losses of this magnitude warrants the most careful scrutiny.

I think we can best begin to understand the problem addressed by these hearings by reviewing the events of the last few years. This may be a case where, in the words of Oliver Wendell Holmes, a page of history may be worth a volume of logic.

THE GAME PLAN THAT FAILED

Historians may well record that during 1969-71 the "free market" was given its last chance to prove itself, and it failed the test. Shortly after his inauguration, President Nixon made an historic pledge: He would bring about price stability without increasing significantly unemployment, and he would accomplish this victory without any government intervention in the marketplace.

As America's number one football fan, he laid out his "game plan" for achieving this victory. The plan was simple: Retard the growth in aggregate demand by balancing the budget and curtailing the money supply, and free market forces would do the rest. As the growth in aggregate demand slowed, no longer would too few goods be chasing too much money. Then prices would stop rising and the inflation would be brought under control. All this would be accomplished after a few "awkward months" during which high interest rates would cause some adjustment pains, slackening demand would cause a mild slowdown in production and business profits, and unemployment would rise modestly—perhaps to just over 4 percent.

The adjustment process predicted by Nixon's "game plan" rested on an heroic assumption: Businessmen would respond to slackening demand by not raising prices or, better still, by reducing prices, and labor would settle for smaller wage increases as prices stopped skyrocketing and the demand for labor slackened

"modestly." President Nixon translated into policy his faith in free market forces by stating publicly just six days after his inauguration, and periodically thereafter, that he did not intend to interfere with particular price and wage decisions, as had been done during the 1960's. And, indeed, for 27 months the Office of the President did not interfere with a single price or wage decision, except for a few instances in the construction industry.

Seldom in our history has a President put an economic theory to such a rigorous and persistent test, and never have the economic costs of failure been higher. It is for this reason, as I said at the outset, that our experience during 1969-71 may well mark a critical turning point in American economic history. Before looking to the future, let's review briefly the record since January 1969, as well as preceding events.

THE GAME PLAN IN ACTION

The tax increase signed by President Johnson and which went into effect July, 1968, balanced the budget. By the first quarter of 1969 government receipts exceeded expenditures, and for the entire year income exceeded expenditures by \$7.4 billion. Thus, fiscal policy was no longer expanding aggregate demand. Simultaneously, monetary policy exerted a strong downward push on demand, as the total money supply expanded by a modest 3.2 percent. But because the consumer price index (CPI) increased by over 5.1 percent during the year, measured in real terms the money supply actually contracted. Although the money supply expanded during 1970, measured in real terms the total supply actually was still below the January 1969 level. Thus, during 1969 and 1970 fiscal and monetary policies generally followed the Nixon game plan.

Now, if the plan were basically sound, price increases should have begun moderating during the period as sellers competed for a shrinking demand for their output. But prices failed to follow the role assigned them in the plan. Instead of moderating, they accelerated. Whereas the CPI rose by 4.2 percent in 1968, the last year of strong demand pull inflation, it rose by 5.4 percent in 1969, 5.9 percent in 1970 and at an annual rate of about 6 percent between January and August 1971. These increases exceeded any since the Korean War.

Because prices increased in the face of declining demand, the available supply of goods could not be sold at the higher price. The result: a decline in production and a rise in unemployment. The index of industrial production dropped from its all-time high of 175 in July 1969 to 170 in August 1971. Since industrial capacity was still increasing, the drop in the utilization of manufacturing productive capacity fell from 84.5 percent in the first quarter of 1969 to 73.4 percent in the third quarter of 1971. This excess capacity, in turn, cut sharply into corporate profits. Declining profits, plus a general loss of investor confidence in the President's game plan, triggered the sharpest stock market decline since the Great Depression.

But more is involved than excess capacity and lower profits. The smaller output caused by rising prices in the face of contracting demand also meant fewer jobs, with the result that the unemployment rate rose from 3.3 percent in January 1969 to about 6 percent in recent months. Translated into human terms, this increase means that 3.2 million more persons are out of work.

Quite clearly the game plan did not lead to the end run around rising prices and high unemployment predicted by the President's economic advisors. On August 15th the President acknowledged that the plan had failed and unveiled an entirely new "economic plan"—a decision that may well mark a critical turning point in our economic history.

THE FATAL FLAW

Where did the original plan go wrong? Why didn't prices respond to the declining demand as predicted? The fatal flaw in the plan was the fundamental assumption that "free" market forces were sufficiently powerful to discipline key price and wage decision-makers in the economy. Were market forces truly competitive in all industries as they are in many industries, the overall price level would have begun moderating shortly after fiscal and monetary policy had contracted aggregate demand. In such an economy, inflation could only be caused by *excess demand*, or by so-called "demand-pull" inflation where too much money is chasing too few goods. But where markets are not competitive enough, we may have "seller-induced" inflation.

Seller-induced Inflation

When some sellers have market power, inflation is possible *even in the absence of excess demand*. This is seller-induced inflation. Business enterprises with great discretion in administering prices can raise prices even in the face of falling demand. In a dynamic economy, demand increases in some industries and decreases in others. When market competition is working properly, prices would ordinarily be expected to rise in industries with growing demands and to fall in industries with declining demands. Similarly, the rate of productive advance is higher in some industries than in others. In a competitive economy, other things being the same, industries with above-average productivity gains would show price decreases and those with below-average productivity gains would show price increases. Overall price stability can only be achieved, of course, if the industries registering price increases are offset by those showing decreases. But business concerns with market power can distort the pricing process by maintaining—or even increasing—prices in the face of falling demand, or by failing to decrease prices when they enjoy above-average productivity gains.

Organized labor also may cause seller inflation if it is successful in demanding wage increases that exceed increases in productivity. This is usually called “cost-push” inflation; a pushing up of production costs by labor. While this kind of labor-originated cost-push inflation could theoretically occur in any industry with powerful labor unions, it most often occurs in those industries in which strong labor unions bargain with concerns having substantial market power. First, the large profits of such firms entice labor to ask for a bigger piece of the pie. Second, labor believes that management of these concerns has sufficient pricing discretion to “pass on” higher wage costs to consumers. Moreover, because concerns with significant market power do, in fact, have the capacity to pass on wage increases, they are more likely to grant wage demands exceeding productivity increases than are concerns that do not have this power. Research studies show that wage rate increases are indeed positively related to the level of industry profits.

The Case of Steel

The price behavior of the steel industry during the 1950's played a key role in the Kennedy-Johnson guideposts policy of the 1960's, as well as the new economic plan initiated by President Nixon August 15. The steel industry story of the 1950's and 1960's is well known to the Chairman of this Committee. But it is so crucial to an understanding of how we got to where we are today that it bears retelling, for it documents vividly how industries with market power can contribute to seller inflation.

By 1953 the wartime inflation had spent itself, and during 1953–1955 the wholesale price index remained stable. Thereafter it began to rise. Steel prices played a major role in these increases. Between 1953 and 1959 finished-steel prices rose by 36 percent, in contrast to an 8.5 percent increase for all wholesale prices. In fact, wholesale prices exclusive of those of metals and metals manufacturers were only 1.5 percent higher in 1959 than they had been in 1953. Quite clearly, then, steel provided the mainspring for the increase in the wholesale price index during that period.

The persistent increases in steel prices during 1953–1959 cannot be explained simply by the theory of demand-pull inflation. Not only was demand not pulling up steel prices, but at times prices were raised in the face of falling demand and the presence of substantial excess capacity. For example, steel prices were increased in 1954 despite a fall in capacity utilization from 95 percent in 1953 to 71 percent in 1954. The 1958 increase, viewed in terms of the demand-pull theory, was especially perverse since overall capacity utilization dropped from 85 percent in 1957 to 61 percent in 1958.

These sharp price increases resulted in a widening in steel producers' margins after 1953. Gardiner Means' careful analysis shows that producer margins at a standard rate of production about doubled between 1953 and 1959. His analysis reveals that steel prices rose much more rapidly than per unit operating expenses—36 percent versus 14 percent.

By increasing margins the industry was able to operate profitably at a very low rate of capacity utilization. Means estimates that because of the widening profit margins, in 1959 United States Steel would have been able to break even at an operating rate of 30 percent of capacity. In fact, during the first six months of 1960, while operations were at only 47 percent of capacity, the company enjoyed a net income after taxes of \$111 million. In contrast, if it had

maintained only the profit margin prevailing in 1953 it would not have been able to break even at this rate of capacity utilization.

During most of the 1960's steel prices followed a distinctly different pattern than during the 1950's. From 1960 to January 1966, all metal and metal product prices rose less than 1 percent per year. During the next three years of strong demand-pull inflation, metal and metal product prices rose just over 2 percent annually. For the entire 8-year period 1960-68, metal and metal products rose an average of only 1.4 percent a year, which compared favorably with an average increase of just over 1 percent per year for all other wholesale prices.

The picture has changed radically since January 1969, however. Between January 1969 and January 1971 metal and metal products soared 12 percent. In contrast, wholesale prices of products sold in quite competitive markets rose only modestly, or even declined: Farm products, up 3.5 percent; textiles, up 1.5 percent; lumber and wood products, down 14.2 percent; furniture and household durables, up 4.9 percent.

How to explain these differing patterns of price behavior in the steel industry over the past two decades? The answer is to be found largely in differences in public policy. During the 1950's wage and price decisions in steel were made entirely in the "free" market. Government took an essentially hands-off attitude, except for the late Senator Kefauver's persistent investigations of price behavior in the late 1950's. In sharp contrast, commencing in 1962 the government initiated a wage-price "guidepost" policy. Although this policy fell far short of complete success in many cases, it was applied quite persistently in steel and other metal products.

The Wage-Price Guideposts vs. Big Steel

The wage and price guideposts were first formulated by the President's Council of Economic Advisors in January 1962. In essence, the Council's "guideposts for noninflationary wage and price behavior" called for the kinds of wages and prices generated by competitive markets. The Council guideposts were initially designed mainly to educate and mobilize public opinion as to how wages and prices must behave if seller-induced inflation were to be avoided. Essentially, wages should be geared to overall productivity increases, which the Council estimated at 3.2 percent annually, and prices were to decline in industries with high productivity so as to offset price increases in those with low productivity. No mechanism was established to enforce the guideposts. However, events soon conspired to transform the guideposts from mere educational tools into an activist new approach to controlling seller-induced inflation.

Predictably, the steel industry provided the events leading to the new policy. As already noted, steel pricing behavior had played a major role in the seller-induced inflation of the 1950's.

In early April 1962, the Steelworkers' Union accepted a wage settlement calling for an increase in hourly wages of about 2.5 percent, a "noninflationary" settlement that fell well within the guideposts and which had been urged upon the Union by the Kennedy administration. The week following the settlement, United States Steel announced a general price increase of 3.5 percent. The next day, Bethlehem (the second largest steel producer) and five other companies followed suit with identical price increases, an action reminiscent of the behavior of the 1950's, since the industry was again operating well below two-thirds of capacity. These price increases represented a clearcut use of discretionary pricing power and posed a direct threat to the administration's effort to accelerate economic growth without inflation.

What followed is familiar history. President Kennedy announced that the price increases were in direct conflict with the wage-price guideposts, reminding the industry that the recent wage settlement could be offset by productivity increases and urging steel companies that had not yet increased their prices—notably Inland, Arco, and Kaiser—not to follow United States Steel's lead. Shortly thereafter, Inland and Kaiser publicly announced that they would not follow the lead. Bethlehem—and shortly United States Steel—then withdrew their own price increases.

While the episode was all over in three days, bitter memories lingered. At first, much of the business community was highly critical of the episode. These emotional reactions soon subsided, however, and—perhaps most important—steel prices remained reasonably stable over the next four years, and pretty well paralleled the behavior of the overall wholesale price index until January 1969.

Although the Kennery-Johnson guidepost policy was never fully implemented and broke down almost completely during the demand-pull inflation during 1966–

1968, it continued to be applied in the steel industry through 1968 with some significant success. For example, when in July 1968 the steel industry announced a proposed price increase of about 5 percent, President Johnson's Cabinet Committee on Price Stability succeeded in persuading the industry to raise prices by less than one-half the increase originally announced.

Steel Pricing Since January 1969

The most dramatic proof that guidepost policy influenced steel prices are the events following President Nixon's announcement shortly after his inauguration that he would not use "guideposts," "jawboning," or any other "artificial" device calling for wage and price restraints in industry. Not too surprisingly, therefore, when steel once again felt free to administer its prices as it saw fit, it went on what has been aptly characterized as a post-Johnson price orgy. This despite the fact that during the last three years the industry operated with substantial excess capacity. Obviously this behavior is in direct contradiction to the basic assumptions of the President's game plan that "free" markets would restrain price increases once aggregate demand was contracted.

Do not misunderstand me. Steel is not the only culprit in this drama. Other industries with great pricing discretion, as well as powerful labor unions, may also contribute to seller-induced inflation.

To sum up, the presence of unrestrained market power is a major source of inflation in contemporary America. And, significantly, such power creates inflationary pressures even in the absence of strong demand-pull inflation. Indeed, if we try to control seller- or cost-push inflation with monetary and fiscal policies alone we inevitably end up with unacceptably high levels of unemployment. Hence, the only way we can reduce unemployment to low levels without inflation is if we restrain the use of discretionary economic power.

WHERE DO WE GO FROM HERE?

What, then, are the alternative methods of dealing with the problem of market power-induced inflation? The alternatives fall into four general categories: (1) comprehensive wage and price controls; (2) a direct attack on the citadels of power with the objective of dissipating existing power; (3) some form of wage and price guideposts or incomes policy of an essentially voluntary or semivoluntary nature; or (4) a more comprehensive form of prices and incomes policy that would incorporate a broad mix of measures extending beyond a direct attack on wages and prices alone. Let's consider briefly these alternatives.

Direct Wage and Price Controls

I begin with the assumption that the first alternative, comprehensive direct wage and price controls, is an unnecessary and unacceptable solution except as a stop gap measure under the most pressing circumstances. I am, therefore, looking beyond Phase II.

Elimination of Market Power

The second alternative, the dissipation of existing market power, is an essentially long-run approach and therefore is not an adequate solution standing alone. But as discussed below, it is a promising and essential ingredient in a comprehensive approach to the problem of seller inflation.

Guidepost Policy

This alternative, insofar as it is a mere replay of the wage and price guideposts approach pursued in the 1960's, is not a viable alternative for the future. First, in the past the policy functioned without a clear legislative mandate, thus depending upon the whims of each occupant of the White House or his staff.

Second, in practice the guideposts were applied too arbitrarily and inconsistently. It was too much of a hit-or-miss operation, and as a result a few industries received most of the attention. Although these were important industries, others with equally offensive behavior were left untouched. Such a discriminatory policy is not only inequitable, but eventually becomes politically intolerable.

Third, the policy focused primarily on wages and prices. By neglecting profits, salaries and other kinds of professional incomes, the policy was inherently inequitable. So long as policy focuses solely on wage incomes, it is unreasonable to expect labor to go along with the program.

Fourth, except for the last years of the Johnson administration, scant attention was paid to other measures that might supplement guidepost policy in restraining the use of market power. As a result, an unnecessarily heavy burden was placed on guidepost policy, a burden that could have been lightened had complementary policies been used.

For the above reasons the simple jawboning approach of the 1960's will not prove adequate for the future. What, then, are the essential ingredients of a viable prices and incomes policy? Time permits only the briefest outline of what I believe is required to do the job.

TOWARD A VIABLE INCOMES POLICY

In all that follows I shall assume that every effort will be made to pursue an optimum mix of monetary and fiscal policies. Other policies cannot serve as a *substitute* for appropriate policies that match overall demand with supply and that provide an expansionary environment encouraging economic growth. On the other hand, Monetary and fiscal policies cannot do the job alone. I therefore propose the following as being essential complements to sound monetary and fiscal policies.

Prices and Incomes Policy

To begin, an explicit legislative mandate should be given to any future prices and incomes policy. The issues involved are too important to be left solely to the discretion of the temporary occupants of the White House. This mandate should emphasize the "incomes" aspect of the policy and not focus simply on prices and wages.

A serious flaw in the guidepost policy of the 1960's was its single-minded emphasis on wages and prices. This may also prove to be the fatal flaw of the present effort.

In the future, profits, salaries and other professional income must also be considered. It is both inequitable and unrealistic to expect labor to go along with a program that ignores all but wage incomes. I am, of course, talking about matters that will affect the redistribution of income, a subject that received scant attention even in polite liberal circles during the 1960's. Something must be done to truly reform our discriminatory tax structure. Laborers and other salaried employees simply cannot be expected to go along with a policy asking them to exercise restraint when so many others enjoy vast incomes on which they pay only small taxes. Moreover, an incomes policy cannot work if some industries enjoy persistently high profits, a subject to which I'll return shortly.

What sort of mechanism should be created to implement this policy? Personally, I favor an independent agency created by the Congress. Its members would be appointed by the President and confirmed by the Senate. The agency would systematically review wage and price decisions in *those industries where labor and business have substantial discretionary power*. I emphasize that the agency should not get involved in every wage and price decision in the country. Fortunately, most of the economy is still effectively competitive. The Congress should, however, spell out the areas to be covered by the policy.

It would probably be necessary to permit the agency to impose direct price and wage controls in some industries but I would hope that it could rely primarily on the power of publicity in encouraging responsible behavior.

Complementary Programs

The preceding is not to imply that sole, or even primary, reliance should be placed on a price and incomes policy. Rather, the Congressional mandate authorizing such a policy should also make it manifestly clear that a coordinated approach be pursued to improve the basic functioning of our economy. President Johnson's Cabinet Committee on Price Stability outlined the basic ingredients of such a complementary policy. It specifically mentioned (1) manpower policies, (2) programs to promote competition, (3) freer international trade, (4) close surveillance and coordination of government procurement programs to avoid unnecessary market disruptions, and (5) special programs to deal with industries posing particularly difficult problems in controlling inflation, especially in the construction and the medical care fields.¹

¹ Cabinet Committee on Price Stability, *Report to the President on the Committee's Activities With Recommendations for Future Action*, December 28, 1968.

The Special Role of Competition Policy

Time does not permit elaboration of these complementary programs. Their primary thrust, however, is to make our market system work more efficiently and to reduce the necessity for more comprehensive and direct government intervention into business and labor decision-making. Pro-competition policy plays a central role among these complementary policies. For example, President Johnson's Cabinet Committee on Price Stability concluded, "We recommend vigorous enforcement of the antitrust laws as essential for reducing further the inflationary effects of discretionary power. Only to the extent that we maintain effective market competition can we continue to place primary reliance on private decision-makers in our quest for high employment, rapid economic growth and price stability."¹

It cannot be emphasized too strongly that the extent of government involvement in price and wage decisions is directly related to the extent that competition restrains the discretionary power of key decision makers. We therefore have a choice: Either enlarge the area of competitive markets or enlarge the area of government involvement in business pricing decisions. Moreover, the extent of market power in business bears directly on the extent and use of power by labor. As we have already observed, market power in business begets market power in labor, as well as encourage labor to make maximum use of its power. But perhaps even more importantly, where firms enjoy persistently exorbitant profits, as in the drug industry, such excess profits must be eliminated if we are to expect labor unions not to exercise their power. It is not sufficient to argue, as many have, that eliminating monopoly profits in a particular industry is not really very important because it will not significantly increase incomes of others in the economy. The critical point missed by this argument is that it is unreasonable to expect some persons in the economy to exercise restraint in the use of discretionary market power unless we adopt an explicit national policy designed to place limits on the market power of all segments of the economy. Thus, increasing competition in an industry serves the dual purpose of reducing the discretionary power of those in the industry and encouraging others in the economy to behave responsibly in using their powers.

Incidentally, some of the procedures followed by the Price Commission raise serious questions. The Commission set as its objective the limitation of price increases to about 2½ percent over the next year. To achieve this end it frequently allows individual large firms to raise prices on all products by average percentage. For example, General Electric was permitted to increase prices by an average of 2 percent and U.S. Steel by an average of 3.6 percent. Seemingly, this approach has the virtue of simplicity and flexibility. The Price Commission simply leaves it up to the business firm to decide which prices to increase. Anyone familiar with American industrial structure knows that these large firms produce products sold in many different market structures. For example, some of G.E.'s products are sold under near-monopoly conditions and others under quite competitive ones. By giving the individual firm freedom to decide which prices to increase, the Price Commission is granting a license to exercise power wherever it is greatest. As the *New York Times* recently reported, businessmen and the Price Commission are involved in "gamesmanship." It explained that "The president of one of the nation's largest industrial concerns said publicly that a price increase his company had been awarded . . . fell well within the guidelines. He conceded in private, however, that the broad percentage increase had given the concern a much higher increase when applied selectively to only some of the company's products. Other products had been raised earlier."²

Experience with Phase II teaches several additional lessons relevant to the subject of these hearings. First, any program designed to deal with seller-induced inflation should carefully identify the products to be covered by the program. Specifically, it should focus on products where firms possess considerable discretionary power, in contrast to the present program which often deals with all of a company's products. Second, the agency administering the program should be open to public scrutiny. There is an unfortunate asymmetry in this respect in the procedures of the Wage Board and the Price Commission. By their very nature, wage increases are highly visible and easily measurable. On the other hand, many important operations of the Price Commission are cloaked in secrecy.

¹ *Ibid.*, p. 7.

² *The New York Times*, January 9, 1972.

The public is not permitted to view the cost and other data presented by companies, nor is there any information concerning which prices are being increased by companies like G.E. There is a danger that the public is being misled into believing that whereas the Pay Board is having certain difficulties, all is well within the Price Commission. Should the public later feel it has been deceived, it will lose confidence in the integrity of the Price Commission. Finally, the current experience again illustrates the great difficulties inherent in any system of wage and price controls, and therefore argues forcefully for keeping to a minimum the areas requiring controls.

Or consider the case of a large drug company recently given permission to increase its prices by an average of 0.9%. In granting this increase, the Price Commission was quoted as saying, "We're not interested in specific products and we will agree with your price increase for 1972. You can do it anywhere in your product line that you see fit from the point of view of the marketplace." New York Times, January 16, 1972, Section 3, page 2. This approach of giving a company discretion to increase prices depending on market conditions raises serious questions concerning the basic assumptions underlying the Commission's approach. This procedure would be OK if the price of each product were set by competition. Of course each is not, and that's why the Price Commission was set up. Consider the drug company I mentioned: 40 percent of its sales are in antibiotics, where prices fell 13 percent in the last 3 years. The company president said, "It's perfectly clear there's no possibility of a price increase for antibiotics . . ." He then explained that the 0.9% overall increase will be applied to "a very limited number of [other] drugs. . . ." *Ibid.* Presumably, the price increases will be made in the less competitive products. Of course, these are precisely the products the Price Commission should be restraining. Thus the Price Commission's policy of "term limit pricing" does not come to grips with the problem of seller inflation because it rests on the faulty assumption of competitive markets.

COMPETITION OR CONTROLS

To return to the main theme of these hearings, I believe the issue is simply this: either we enlarge the area where competition is sufficiently effective to limit the pricing discretion of business firms or we must enlarge the area of price controls. I offer these suggestions for making competition more effective.

Industrial Restructuring

Eighty years of experience with the Sherman Act should leave no question but that the traditional case-by-case approach followed by antitrust agencies will not bring about sufficient industrial restructuring. Since World War II the antitrust agencies have brought few cases for restructuring industry, and there is no reason to expect them to do better in the future. We will only get sufficient industrial restructuring if the Congress gives a new mandate to the antitrust agencies, or a new authority. This mandate should either specify particular industries requiring restructuring or specify the structural standards to be used in selecting the industries, as was done by the Neal Report. Industrial restructuring required to reinvigorate competition should not be viewed as a hostile attack on business or our market system. On the contrary, such actions should be viewed as therapy essential to the survival of competitive capitalism.

Second, I believe legislation should be enacted to prohibit practically all mergers among very large corporations and the acquisition of firms holding leading positions in concentrated industries.¹ Such action will be procompetitive because it will encourage more firms to enter new industries by internal growth. For a time it looked as though this administration would give the Supreme Court an opportunity to decide whether the Celler-Kefauver Act prohibited such mergers. Unfortunately, the Department of Justice has settled all of its important conglomerate cases with consent decrees, despite the fact that the ITT-Grinnell case was already before the Supreme Court. As a result, I fear we cannot rely on the antitrust agencies to act aggressively enough unless they are given a more explicit mandate by the Congress.

Finally, in view of the enormous impact that large corporations have on the economy, it is time they be recognized and treated as quasi-public institutions.

¹ For a discussion of my specific recommendations for such a statute see, Willard F. Mueller "Conglomerate Mergers: A Crisis in Public Policy," in *Investigation of Conglomerate Mergers, Part 7. Hearings before the Antitrust Subcommittee, Committee on the Judiciary, House of Representatives, 91st Cong., Second Sess., May 13-15, 1970, pp. 330-339.*

Federal chartering is an appropriate first step. Time does not permit spelling out the necessary ingredients of a Federal chartering statute.² Its chief thrust, however, should be to make the operations of large corporations more visible and to place certain restraints on their behavior. This proposal is not a substitute for a vigorous program to make competition more effective. On the contrary, fuller disclosure of corporate affairs complements competition policy by opening up new opportunities for the operation of natural market forces.

In conclusion, America is at an historic crossroad. It does, indeed, face a choice between "controls or competition." Which will it choose? Whether or not the market survives in the greater part of our economy will be determined not by technological imperatives but by public policy toward the achievement and retention of economic power. The market may well be abandoned in favor of controls, as Galbraith and others predict, but not for their reasons. The ultimate choice between controls and competition will depend on whether or not the constituency of competitive capitalism can be enlarged. In the end it will be public attitudes toward the competitive system, not "natural" economic laws that will determine its fate.

Senator HART. Next, and again not the first time for this subcommittee, we turn to Prof. Carroll Quigley. I recall very clearly when Professor Quigley testified during those early Truth in Packaging hearings. Perhaps the reason I remember it so pleasantly is that he is a historian and not an economist. I cannot claim to be a historian but I have to acknowledge I am not an economist and I did enjoy Professor Quigley very much on that occasion.

We are delighted to welcome you back again.

STATEMENT OF CARROLL QUIGLEY, PROFESSOR OF HISTORY, GEORGETOWN, UNIVERSITY

Mr. QUIGLEY. Thank you, Senator Hart.

I was a member of the American Economic Association for more than 25 years, but I certainly am not speaking today in any sense as an economist as you have indicated.

As a historian I feel that my task is essentially one of trying to add perspective to our discussions. I not only mean perspective in time, in the sense that the past has lessons for us, but I mean above all sociologically speaking. That is to say, there is a good deal to American life outside of the area of economics, and I think history, or even a careful examination of the conditions of things today would show that many of the causes, if not the major part of the causes, of our economic problems exist in other areas of our life and that if we attempt to deal with the symptoms of economic maladjustments in the field of economics, we will discover precisely this, that we are dealing with symptoms rather than with causes.

Every civilization in the past has reached a general crisis such as we are now in. A civilization generally lasts for at least a thousand years and ours has lasted now for just about a thousand years. I would say it clearly existed in 972, a thousand years ago.

The crisis generally occurs about two-thirds of the way through. If I were to establish the lifetime of a civilization as being in terms of 100 points on a scale, with 0 the beginning, and 100 the end, I would say that today we are in our civilization, which is Western civilization, at about point 70.

² For a discussion of some suggested provisions of such a statute see, Willard M. Mueller, Hearings on Corporate Secrecy, Monopoly Subcommittee, Select Committee on Small Business, U.S. Senate, November 12, 1971.

It has generally happened in the past that civilizations have gone to destruction through self-destruction. I think it could be demonstrated that every civilization which has perished in the past died from suicide. One of the forms that suicide took was the attempt to deal with symptoms and not with causes, and one of the chief reasons for that was the attempt to deal with economic problems in the economic area alone.

Prices are largely symptoms. Another one of the speakers here has a reference in his notes to the failure of Diocletian's efforts to establish and maintain price controls in the Roman Empire around the year 300. There are two important things here. The first is that Diocletian was dealing with symptoms and was unsuccessful. That is the important thing. He was unsuccessful because the causes weren't in the field of economics. They were the field of social and emotional relationships.

All of our problems today are closely linked and interlinked: I call it a general crisis because I do not think that there is any single cause. It is the interrelationship of developments that establish this and make it a complicated problem. And just as a moment ago I tried to establish the life of a civilization from 0 to 100, saying we are at about 70, I would like also from the sociological point of view to look at any civilization in terms of seven aspects. Military, political and economic, a trio that somehow seem to go together. Then social, emotional, and religious, which also seem to go together as a trio. And lastly, the seventh, intellectual.

I think you will find that one of the chief causes of any civilization's difficulties is increasing emphasis upon the lower three, military, political, and economic, with the resulting neglect and disruption of the next three, social, emotional, and religious.

I can demonstrate this by showing you what a civilization might be like at point 20, although you will all immediately think, this is a very academic approach. I don't think it is. The details are here in the text of my statement. At point 20 we generally have a static society with only two classes. It is completely rural, it is organized in self-sufficient economic units which are not economic units but are social units—

Mr. GORE. Twenty. You said 70.

Mr. QUIGLEY (continuing). Which are either kinship groups, such as clans (I mean large kinship groups, not the nuclear family which we now have), or villages or both.

The two classes which exist in that early stage are a small group of military men who are military men simply because they possess the weapons, and a great mass of peasants who provide food. This is not an unjust situation because there is a reciprocal relationship between them. The military men provide protection and justice and the peasants provide goods and services in a reciprocal relationship.

There is little literacy, no state, and no public authority. Law is simply unwritten custom. The individual hardly exists because he is totally absorbed in a social unit, either the village or the clan, and all property ownership, all decisionmaking, and much of the protection of the individual is handled by that social unit, not by the individual himself, and certainly not by a state.

He is entirely enveloped, then, in a social group which has these controls over him. This is of vital significance, it seems to me, that of

his life back in that early period is subject to internalized controls and internalized rewards. These are neurological, emotional, and to some extent intellectual patterns derived from and legitimized by his social and religious experience in his early years.

The significance of this today has been largely neglected, but I think if you look at the crime rate in Tokyo, you would be amazed at how low it is. This is because of the strength of the Japanese family. Similarly, if you look in the ghettos of American cities and seek out the statistics on violence and crime, let us say, among the Chinese, you will find again that it is spectacularly lower than that of other groups, including my own national origin group, the Irish, particularly as the Irish existed, say, 100 years ago.

The reasons for this is the strength of the Chinese family. I am not saying that all of our troubles today come from the weakness of the American family. I am simply saying that many of the problems and many of the causes and certainly some of the solutions we seek must be sought in the social, emotional, and religious levels and we must increasingly internalize controls and internalize human rewards in personal, emotional, social, and even intellectual satisfactions rather than go on in the path that we have been pursuing of emphasizing and controlling our life through external controls, by the element of force at the military level, the element of power at the political level, and the element of material rewards at the economic level.

The changes which have occurred in our society can be looked at from many different points of view. All of them are legitimate. All of them are one-sided. I have just spoken of the change which occurs in civilizations as the externalization of controls and rewards. It could be put another way. The disintegration of the social unit which once handled so much of an individual's life has left undone many problems such as what happens to the orphan, what happens to the aged, what happens to the sick, all of the social welfare problems, for example, that we have today. We have, for example, today, an acute problem, the problem of the old, and we have had hearings in the Congress on this. This is part of the same basic change, the disintegration of the social unit which used to take care of the old because the old were an intimate part of it. Part of this is reflected in our attitude and way of looking at things. In the Chinese family as a person gets older, he gets more prestige, more respect, and more attention. In our family, as a person gets old, he is increasingly shoved aside because we focus the most importance and greatest value of our system on the young, so that we have 55- and 60-year-old women trying to look like teenagers of 18, and this is because of our value system which has nothing to do, you see, with economics or politics or our military aspects.

What we have had, then, in the course of history is this disintegration of the kinship group, the disintegration of the local community, the parish, the village, or the neighborhood, so that they cease to function as emotional, religious, welfare, social or decisionmaking units, and since these things are left undone, they are gradually picked up by public authority, first, by the local political units, the counties, as they were in England 150 years ago, then by the State, and even to some extent now by international organizations such as the Food and Agricultural Organization and others.

The whole period from stage 20 in any civilization to stage 60 which approximately is the stage we may be at now is marked by the growth of public authority and rise of the State, first by its acquisition of military, defense, justice, lawmaking, and so forth, but then acquisition of educational, welfare, charity, care of the aged, ideology, et cetera, and as a consequence of this, personal loyalties have become increasingly concentrated on the State and decreasingly concentrated on the family, the local unit, the church, the parish or village or whatever it happens to be.

By point 70 in the life of any civilization the society is moving toward confrontation between the totalitarian state and atomized individuals as it takes over more functions and more decisionmaking and aspects of life.

Individuals to some extent try to obviate this by establishing voluntary associations. These voluntary associations may range from narrow age groups such as an association of the aged, to economic groups or various interest groups, each seeking its own aims, but the old groups were time-binding and tradition-maintaining and lacked tradition disrupting attributes. The new units of peer groups of various kinds of people with a narrow and single realm of interest are tradition-disrupting. That is, they break the link between the past and the present and the future and accordingly, they are tradition-disrupting and as time-binding becomes weaker in a society, and as traditions are increasingly disrupted, the necessity for making decisions becomes increasingly pervasive this means that any group or any organization or any structuring organization which believes it can make decisions is going to take over the task of doing it because people are not going to leave vital decisions undecided or leave vital problems undealt with.

But the results of this in social life is anomie, which is social disruption, and personal alienation; and, as a result of this, new historical phenomena appear. These are dealt with in the remaining part of my written statement.

One point before I finish that I would like to add concerns the implication which has been made here, in some of the statements, that Government intervention is something new. I would like to emphasize it is nothing new and certainly not in the history of the United States. The history of the United States seems to largely rest on decisions which were by Government and made very early. For example, the decision made in the Constitution that we could establish tariffs on goods coming in but we could establish no restraints on goods going out is a Government intervention in economic life. The tariff is definitely a Government intervention. Mr. Mueller here has just spoken about establishing an organization to control business decisions with regard to prices, et cetera. It seems to me it would be very simple to establish a considerable amount of competitiveness in our economy simply by abolishing all tariffs. We will not do this because of the vested interests who are benefitted by the tariff, but the recent behavior of this country, for instance, toward Japan because Japan is making optical equipment, automobiles, textiles, and other things which can undercut American prices and which is a reflection very largely of the greater efficiency of their economic organization, is not something that can be left out.

The mother of monopoly has always been from the beginning tariffs; and I am not advocating abolition of tariffs. I simply think we should face the situation.

Government intervention, as I say, is nothing new. Subsidies to business, to industry and corporations, has gone on since the beginning, before the year 1800. These were justified, I think, at that time when scarcity of capital, lack of technological know-how, the lack of a basic economic infrastructure such as roads, canals, water supply, things of that kind, even protection from the Indians, made these things necessary because they were acute lacks and the Government by establishing such things as, for example, the Patent Office which encouraged technological know-how made economic progress possible in this country, and encouraged various methods for establishing capital accumulation—the American railroads were built upon gifts of land from the Government so that even today in some States, particularly California, a major part of the land is still held by railroads, left over from the gifts that were made more than a century ago.

Government intervention gave benefits to corporations. Almost 100 years ago, Roscoe Conklin, a former Senator from New York, gave testimony that he was a member of the joint committee which established the wording of the 14th amendment of the Constitution and that they used the word persons because it would, they thought, include corporations as well as the Negroes of the South for whom presumably they were establishing these protections of the 14th amendment.

Today, however, in our society the questions which face us are not problems of production or lack of capital or of failure of knowledge of technological know-how. We have, if anything, an oversupply of these things today. Today the problems are those of social disorganization, lack of emotional satisfactions, anomie, as I pointed out, and personal alienation, destruction of the quality of life and of our environment.

One last point. History not only shows that Government interventions are nothing new but it also shows from looking at other civilizations that Government intervention maximizes as governments become weaker, and Government intervention at point 70 in a civilization is not an example of big government's strength. It is an example of big government's weakness. And I think ex-Senator Gore at the end of his statement put his finger right on the problem. Public life today and actions of the Government are largely dominated by economic interest blocs of tremendous power and our problem is not strong government but the weakness of the Government in resisting these.

We do not need strong government. We do not need big government. What we need is responsibility. And again, looking at the history of any civilization, there is a steady dwindling of personal responsibility and eventually of corporate responsibility. We do not need to control big corporations nearly as much as we need to make them responsible and there are ways of doing this. There are ways in fact, which are self-enforcing and the greatest reforms in history have always been those which are self-enforcing.

Thank you, Senator.

Senator HART. Thank you, Professor.

(The full statement follows. Testimony resumes on p. 32.)

REMARKS OF PROFESSOR CARROLL QUIGLEY, GEORGETOWN UNIVERSITY

THE HISTORICAL BACKGROUND OF OUR PRESENT ECONOMIC PROBLEMS

The multitude of problems which plague American life today is not unique. All civilizations face a similar situation when they are about two-thirds of the way through their life cycles. Moreover, these problems are all interlinked together into a general crisis of the civilization, so that it would be a mistake to segregate the economic problems, such as inflation, higher unemployment, the widening gap between the rich and the poor, or growing state intervention in economic life. Such segregation of the economic aspects of our crisis could easily lead to remedial actions aimed at symptoms rather than at causes. This is what has generally happened in earlier civilizations, with the result that those past societies have gone on to self-destruction. On the other hand, Western Civilization has reached the state of general crisis at least twice in its past and has, each time, been able to reform itself and resume its course in a period of expansion.

Although all our problems are closely interlinked, it is not possible to designate any single cause for them: it is the system as a whole, and especially the dynamics of the system, which is responsible for the multitude of problems which interact on each other in a plurality of reciprocal, cause-effect, inter-relationships.

A model of the life of any civilization would show the inter-relations of seven or more aspects of human life over the full duration of the civilization, which is more than a thousand years. We may divide that duration into seven periods or, more simply, mark it on a scale of 100. A matrix will show that duration over the seven aspects or levels, thus:

Stage 2: 10-20; Gestation 3: 30; Expansion 4: 40-50; Crisis 5: 60-70; Empire 6: 80; Decay: 90.

Level 7: Intellectual; level 6: Religious; level 5: Emotional; level 4: Social; level 3: Economic; level 2: Political; level 1: Military.

On this scale of duration of 100, a satisfactory life of relatively smooth expansion or "progress" lasts only briefly, say from about 35 to about 55. By 60 or 70, where we are now in Western Civilization, we find a situation in which socially atomized individuals are faced by the gigantic powers of an oligarchic monopolistic economic system on one side and a rapidly growing state authority on the other side, with both narrowing the alternatives of choice for private individuals, sometimes in opposition to each other, but frequently in combination. The causes of these problems of point 70 are to be found in the past events since 20.

Each civilization at point 20 is a static, two-class society, completely rural, organized in self-sufficient economic units which are really social units, either kinship groups (clans) or villages, or both. The two classes are a small minority of fighting men, generally the only ones who possess good weapons, and a large majority of peasants. There is a reciprocal relationship based on the exchange of protection and justice from the warriors for food and services from the peasants. There is little literacy, no state or public authority, law is simply unwritten custom, and the individual hardly exists, being almost totally absorbed in the large social units (village or clan) which form the constituent parts of the society as a whole. The individual is not an autonomous property-holding or decision-making entity (in fact he has no rights as an individual) but is entirely enveloped in the social group which has these. The controls over him and most of the rewards of his life are almost entirely *internalized* as neurological and emotional patterns derived from and legitimized by his social and religious experiences in his early years. This is in sharp contrast to today where both controls and rewards are *externalized* in the form of military, economic, and intellectual pressures. At points 20-30, individual satisfactions are mostly on the social, emotional, and religious levels, while satisfactions on the military, political, economic, and intellectual levels are minimal. On the other hand, the high level of social, emotional, and religious satisfactions give life meaning and emotional security, so that crime, perversions, and violence within the community (where most of life operates on a face-to-face basis) are minimal. Such pervasive internalized social controls within the individual explain the lack of crime in the English countryside in the Victorian period, in the Chinese communities of American cities until only yesterday, and in Tokyo today.

This is the condition of a civilization at point 20. By point 30 it begins to expand, and from point 35 to about 55 it is in full expansion. There is a complex explanation for this expansion which is omitted here, but it may be pointed out

that an obvious aspect of the change is an increasingly strong diversion of energy, attention, and resources to the lower levels of human experience, that is to the economic, political, and military with neglect of the social, emotional, religious sides of life. This leads to increasing external security, increasing population, beginnings of commerce, increasing specialization of economic activities, rise of towns and cities, rising standards of living, the appearance of several new social classes (notably a middle class between the two older classes of warriors and peasants, as well as a lower class of workmen), increasing literacy, increase in intellectual life and knowledge, and an expansion in the geographic extent of the civilization.

Most important are other changes which lead to the externalization of controls and rewards for individuals, with a shift of both controls and rewards from the social and religious levels to the military, political, and military levels. These changes arise from the disintegration of social and religious groupings and the transfer of much of their functions to the totally new organizational structure marked by the growth of public authority and of the state. With this goes the emergence of the individual as the chief constituent part of the civilization and a parallel drastic widening of the possession of weapons. As expansion continues, the clan or large kinship group and the rural village disintegrate. The clan is replaced as the property-holding, decision-making, and religious-educational envelope surrounding the individual by splitting into the extended family of three or more generations, and later this, in turn, splits into the nuclear or biological family of husband, wife, and unmarried children. This nuclear family begins to break down, by point 60, with the dispersal of property and decision-making to the individual members, the departure of unmarried children from the home, the arrival of easy divorce and the loss of the family's religious and educational functions, the ending of the family as an economic unit and, finally, its continued survival as little more than a residential and sexual unit. By points 65 these two functions also begin to vanish: the husband and wife may be sleeping anywhere or with anybody.

Parallel with the disintegration of the kinship group goes the disintegration of the local community (the village, parish, or neighborhood), so that these also cease to function as emotional, religious, welfare, social, or decision-making units.

As social units disintegrate and lose their earlier functions, these functions are either left unfulfilled or are assumed by the new organization of decision-making power, the state. The whole period from point 25 to 70 is marked by the growth of public authority and the rise of the state, at first by its acquisition of defense (military), justice, and law-making, but later by acquisition of educational, welfare (charity), care of the aged, ideology, and the gradual concentration on it most personal loyalties and allegiance as these were lost by social and religious groups. On the whole, the state assumed only a small part of what was lost by these other groups, so there was growing dissatisfaction with inadequate social, emotional, and religious experience, much of it not clearly recognized. Nevertheless, by point 70 the state is moving toward a totalitarian confrontation with atomized individuals as it takes over functions and decision-making touching on all aspects of life.

Some individuals begin to form voluntary, specialized, associations, chiefly on the economic and political levels, but these are no substitute for the older social groupings which were tradition-maintaining and time-binding groups because they included all generations and served to socialize the young and to pass on the traditions of the civilization. The newer voluntary associations were usually drawn from narrow age groups and were goal-binding rather than time-binding, tradition-disrupting rather than tradition-maintaining. As a consequence, succeeding generations of the young are inadequately socialized and emotionally alienated in a social environment of general anomie. This leads to a reversal of the civilization's earlier traditions, to emotional frustrations, growing obsession with material artifacts, to quantitative rather than to qualitative satisfactions, with increased emphasis on sensual life, wealth, power, and force, none of which provide a satisfactory substitute for the lost social, emotional, and religious satisfactions which arise from possessing a known identity in an established social context, with face-to-face relationships with other persons of established identities and with nature itself.

In this atmosphere of social anomie and personal alienation, new historical phenomena appear, including economic dislocation, imperialist wars, class conflicts, deep irrationalities and perversions, self-hatred, crime and violence. The

state becomes increasingly totalitarian as it takes over more functions and more decision-making activities. It is able to do this, and largely compelled to do so by the break-down of other organizations, and by the intersection of three developments: 1. the externalization of almost all controls and rewards; 2. the rising incidence of crime, violence, and other social problems; and 3. by the growing influence of private organizations, especially economic ones which accumulate wealth and power in private hands and for private purposes to a degree that they are able to challenge the power of the state and by their greed create the economic problems we have mentioned. In ancient Rome this problem took the form of the monopolization of the land in gigantic estates, whose owners destroyed the Republic and were eventually destroyed by the military forces they had created to do this. In America this destructive influence is arising from numerous bureaucratic organizations, including business corporations, labor unions, trade and professional associations. The experience of past civilizations seems to show that we will try to deal with these evils by increasing the functions of the state, but history seems to show that this will be a futile effort because the state in the past has not shown itself able to resist, let alone control private economic power, and has also shown the inability of the state to control private actions by the use of external instruments of force, wealth, and ideology. These failures in past civilizations have usually led to growing alienation from the state, growing inability of the state to defend the society, and finally a general abandonment of the society and the state by individuals seeking a total life experience within new socio-religious groupings, such as new religious groups or communes. Such behavior has always finally resulted in a drastic collapse of the civilization as a functioning entity, with a drastic fall in population, standards of living, and personal security, until another civilization gets organized in the same area. For our civilization, these things are centuries in the future, or at least a century.

Senator HART. Early in Professor Quigley's discussion the committee was joined by the able Senator from South Carolina, Mr. Thurmond.

Now the committee welcomes one who has strong academic background and experience in business at management level and periodic exposures to government. This is Dr. A. C. Hoffman who for more than 25 years was vice president for purchasing for the Kraft Foods Co.

During World War II he was the Director of Food Price Controls for the OPA. Somewhat earlier, as a Government economist, he wrote one of the monographs for the TNEC.

He has his doctorate in philosophy and economics from Harvard. Doctor, we welcome you.

STATEMENT OF DR. A. C. HOFFMAN, RETIRED VICE PRESIDENT, NORTHBROOK, ILL., KRAFT FOODS CO.

Dr. HOFFMAN. Thank you, Senator Hart, members of the committee. I want to state first of all that I am appearing here strictly as an individual—

Senator HART. That we understand.

Dr. HOFFMAN (continuing). I am not a spokesman for anybody.

In outlining the scope of this symposium, Senator Hart has raised the fundamental question of whether industrial structure has been a fundamental factor in the failure of monetary and fiscal policies to maintain full employment which, of course, is a matter of great complexity. And I think it goes to the root of what each of us thinks is wrong with our economy and what should be done about it.

Quite a few things are coming unglued these days, and among them is the comforting assumption that we now know how to control

business crises. For several decades most of more prestigious economists have taught that the way to do this was by applying the correct monetary and fiscal policies: to cool off an overheated economy, one tightened monetary and credit policies and pursued a prudent fiscal policy; and vice versa. For a time it seemed to work. Then some amazing and unusual things happened. A conservative Republican administration came to office—not that this was amazing, but that was the beginning of recent events—and this administration was pledged to slow down the inflation resulting from the Vietnamese war. It began in the orthodox way by curtailing the money supply and seeking to balance the Federal budget, but business dropped off and unemployment rose and when no improvement seemed in sight, the administration reversed its policy, loosened the money supply, declared that it became Keynesian, and permitted a budget which brought two big thumping deficits back to back with the third in prospect.

Then something happened which was not supposed to happen. The economy produced simultaneously rising prices and rising unemployment. The new economics had provided for a trade-off between inflation and unemployment, more of one for less of the other, but not this.

Finally last August the administration slapped on wage and price controls, the first in American peacetime history, which is where we are now.

I think it is understandable if President Nixon may feel a little letdown with the new economics and if the public is a little confused.

Now, there are a great many people who will blame big business and big labor for what happened and in part they are right. To the extent that big labor has the power to dictate inordinately increased wage rates, and big business has the power through administered prices to pass the wage increases on to consumers in the form of higher prices, then both are responsible for cost-push inflation; and if these powers are not curbed and cost-push inflation thereby becomes endemic to our economic system, then I do not think the public will or should put up with it.

But let us not lay more blame against these twin villains than they deserve. The inflation from which we have constantly suffered over the past 30 years was mainly demand-pulled, generated by a series of hot and cold wars which still feeds it. And for the past 200 years, long before the rise of modern big business, our American economic system has been subject to successive booms and busts, the most serious of which occurred in the 1930's before big business had achieved anything like its present concentration, and organized labor by present standards was exercising almost no control over wage levels. I'm afraid that we must face up to the fact that the core problem of our economy, which is of course its underutilization of available production resources, inheres more in the system itself than in its structural characteristics, important as these are in some respects.

If this is true, then perhaps the time has come to attack that problem by the Government itself entering the economic arena to provide jobs and utilize resources otherwise being wasted. This is a little away from the subject of the symposium but it seems to me that Senator Hart's basic question requires that it be touched upon.

Now, having said this, I do not want to imply that I am not wholly in accord with what your committee is trying to achieve in these symposia. Over the years this committee has done magnificently in bringing to public attention the dangers inherent in the increasing concentration of control in our economy. I personally share these feelings and although I have worked many years for big business and believe in it, I think this trend toward greater concentration of control must be stopped, both from the public standpoint and from that of the business itself.

I take it as self-evident that the extent to which our private enterprise system remains free of Government control depends in the long run on the extent to which it remains economically viable and socially responsive—that is technologically progressive, value given for value received.

And here it seems to me that many people are under a fundamental misconception about the American economy. This misconception is that competition is the natural state of the American economy. Ever since Adam Smith, economists have been taught to assume that, while large enterprises may have advantages up to a point, eventually they are overtaken by their own unwieldiness and internal inefficiencies, so that the tendency toward monopoly is self-correcting and competition is thereby maintained. This is a comforting doctrine, and our antitrust policy from the Sherman Act to the present day is largely based on it.

But I submit to you that this old assumption is not correct and that precisely the opposite is true. The economic advantages—and I am not only talking about efficiencies of scale—the economic advantages are mainly and increasingly on the side of greater and greater enterprise scale, and without limit. The tendency toward concentration is not self-correcting, the problem will not go away, and business itself I think is powerless to stop it.

Why the inexorable drift toward greater concentration?

If this is true, then it is of utmost importance to everyone involved. For it means that the issue is no longer whether or not Government should intervene in the economic process, but only how.

Before asking you to accept this, you are entitled to know my reasons for it because I think it is a very fundamental thing. They rest, of course, on the economies of enterprise scale, which we could spend a week talking about. (1) The increasing mechanization and automation of production processes; (2) the amounts of money required for marketing which are just simply becoming stupendous; (3) the advantages of risks spreading; (4) the internal generation of capital; (5) the efficiencies of integration, and (6) then something which might be called the psychological motivation of big business management toward increasing the scale of its operations.

Now, this last point is not often remarked upon but I think it is very important and deserves some attention. The men who manage big business are hired men. Their performance, their self-satisfaction and their job security are related directly to the growth of their enterprises—to increasing total sales, total profits, share of market, rate of return on invested capital. Much of the stock in their companies is owned these days by investment trusts and mutuals which employ security analysts—and woe is to that corporate management which

does not move or merge or do something to give some evidence of increased growth and profits. Now there is nothing reprehensible or morally wrong in this drive for growth, and if it takes place in a competitively-structured market. I think it is clearly in the public interest. But when it goes on among industrial giants in a market already oligopolistic, as it inherently will, then the smaller and the weaker and the less efficient firms are going to be forced to the wall, which usually takes the form of their merging or selling out to a larger and stronger firm.

I'm sure there are many who will say I overstate the power and advantages of big business, and that my fears are groundless. I wish they were right. It will be said that many of the highflying conglomerates formed a decade or so ago were based on nothing more than financial chicanery and sometimes downright fraud, and that they have deservedly come a cropper, so what is there to worry about? This is of course true, but these highflyers were never the essence of the merger movement. The thing of real significance in what happened—and is still happening—was the tendency among long-established and seemingly mature firms to merge and acquire and drive to increase their size and diversity and share of market.

Of course there will be many exceptions to what I am saying. In some areas of the economy—notably those in which marketing expenditures are not a large factor—concentration is not notably increasing; in many industries—not all—most economies of scale may be achieved before the firm reaches its optimum scale; big firms will occasionally fail and smaller ones sometimes outdo their larger rivals; but this is the direction of the economy, toward increasing concentration of control, and you have had the statistics given this committee many times before.

It seems to me the time has come for a complete reexamination of public policy toward concentration of control in the American economy. If phase I and II have done nothing else, they must surely have brought this home to us.

In my opinion, the present antitrust and related legislation has failed in the basic sense that it has not prevented what is happening. We have just passed through 2 or 3 years of what was purported to be the most vigorous possible enforcement of these laws, and maybe it was. Threats were issued, numerous consent decrees were entered into, and several conglomerates were hauled into court and made to divest a few of the acquisitions which they were probably unwise to have made in the first place. Otherwise, things are going on pretty much as before, as anyone knows who bothers to read the inside pages of the *Wall Street Journal* to find out who is buying whom.

It seems to me the first and most important thing to do is to pass legislation which will enable clear and positive limits and guidelines to be set with respect to mergers, acquisitions, and—in key industries—share-of-market. I say this from what seems to me the best interest of big business itself in the long run.

Since this involves some fundamental departures from past policies and practice, I think the legislation should be on a time-limited basis.

For instance, among the larger corporations—say the largest 200 firms or 100 or 50—all mergers and acquisitions would be proscribed, unless and until the regulatory agency approves it. This is not to say

no acquisitions would be allowed among these firms. The regulatory agency might properly decide to allow some; and in any case a firm could take its case to court. The point is that the first burden of proof would now be on the firm rather than on the Government, and that denial of the merger would come before rather than after the fact of merger.

Second, and in the long run perhaps more important, and I realize this is controversial, in certain key industries the regulatory agency would be authorized to establish limits to share-of-market which a single firm, or groups of firms, could not exceed—or what is much the same thing, to specify the minimum number of competitors to be allowed. Obviously such limitations should be set only after the most careful study; they should be imposed on an industry-by-industry basis, rather than wholesale across the economy; they need not be immutable over time; and once again a firm could go to court to change them. In some industries this would almost certainly lead to some dissolution proceedings; in others it might mainly freeze what we now have; and throughout the economy the effect would be to slow up and even reverse the present trend toward ever greater concentration. I am not suggesting a return to atomistic competition. Those days are over.

I call attention to several types of restraint I would not impose on big business. I would not limit its absolute size, nor the number of its product lines or types of enterprise it might choose to engage in. Indeed, I would hope that the very fact that a large corporation could no longer merge nor exceed a certain share-of-market might lead it to expand its operations and utilize its resources in new fields of enterprise, thus adding to the competitive elements in the economy.

I am well aware that there are many complexities and inequities and much controversy in what I am here proposing. But I'm afraid the alternative, Senator Hart, is given to us in the topic of this symposium—"Controls or Competition."

Many years ago, in World War II in the distinguished company of President Nixon and Dr. Galbraith, I participated in the administration of price controls. I don't know how they feel about it, but I became convinced on the basis of that experience that effective, tough price control is almost impossible to administer over a long period of time, both from the standpoint of the Government and of business itself. I just don't think it will work. That is why I should like to see the preservation of competition, even compelled competition, as the only feasible alternative.

Thank you.

Senator HART. Thank you, Doctor.

Concluding the witnesses who will participate in today's symposium is one who speaks from a background of personal experience in business and is a spokesman for a group of business persons concerned with a specific aspect, taxes. He is Mr. Frank Bond, chairman of the board of Holiday Universal, and today representing the National Taxpayers Union.

Mr. Bond.

**STATEMENT OF FRANK BOND, CHAIRMAN OF THE BOARD, HOLIDAY
UNIVERSAL, AND MEMBER OF THE ADVISORY BOARD OF THE
NATIONAL TAXPAYERS UNION**

Mr. BOND. Thank you, Senator Hart and committee.

Wage-price controls help some people. Otherwise they would not exist. However, those who are typically helped are not the consumers. They are the politicians who impose controls and the bureaucrats and technicians who administer them. Almost everyone else is hurt. That includes most businessmen, especially businessmen who, depend upon consumers, not Government for success.

What is the historical record of controls? They have been failures from the days when the Emperor Diocletian decreed the death penalty for violating his price laws. This country had controls during World War II. But even this patriotic atmosphere of the time did not prevent the controls from wrecking havoc on the economy, while failing to achieve the goal of a stable price level. Prof. Colin Campbell of Dartmouth has accurately recorded the experiences of Americans under wartime controls, as well as that of the German people under the Nazi regime, which imposed similar controls.

Dr. Campbell recounts some of the typical problems: shortages of goods and services, economic distortions, black markets, the breakdown of trade, and even a reversion to barter, which happens when controls remain in effect over a long period of time. Leo Cherne estimated that 10-20 percent of all transactions in Germany in the late years of controls were effected through barter.

Even without a breakdown in the economic system, controls create problems for the economy and problems for businessman which are worse than inflation itself.

Controls tend to reduce the quality of goods and services by encouraging sellers to alter their quality rather than raise the money price.

Controls prohibit increased consumer demands from being registered in the form of higher prices, thus bringing about shortages and disappearance of needed goods and services.

Controls give higher rewards to businesses and industries which can easily redefine the nature of their business. Thus printers, advertising agents, promoters, or repairmen, by the very nature of their activities, defy easy control.

This stimulates an artificial movement of capital toward uncontrolled or less controlled areas, producing distortions in the structure of production and reducing consumer standards of living.

Controls fan antibusiness sentiment among the public by encouraging people to focus their wrath about inflation upon businessmen, when inflation is actually a political problem caused by Government increases in the money supply.

By masking the true effects of inflation, controls, generate uncertainty among businessmen over investments. Experience has shown that controls mask the declining value of a currency, making long-range economic calculation very difficult.

Controls force business to take losses on the sale of inventoried merchandise and preplanned services.

Controls cause some businesses to lose necessary employees because of inability to pay them what they are worth in the marketplace. This is unfair to both business and labor. And many labor unions have recognized this—that the key to their success is the free enterprise system. For that reason we have seen labor unions assuming an historically ironic role as staunch defenders of free enterprise.

At the same time, the business community has temporized its traditional opposition to controls—perhaps feeling that a “friendly” administration would allow the control structure to work to the benefit of management while not allowing wage rates to rise to full market levels.

This is an erroneous judgment. Past experience with controls has shown that wages cannot be long suppressed below the free market level. Companies which permit this lose better workers to concerns which find ways of providing more equitable compensation.

The laws of economics continue to function, even when they differ from the laws of the Nation. And this is another great and inherent danger in the controls. As presently constituted, the price commission guidelines are literally inoperable. Two of the crucial cornerstones in determining permissible price levels are impossible to objectify. They are (1) price regulation according to profit margins, and (2) price regulation according to productivity. In reality, no corporation knows what its profit margins are until after it has closed its books on a specific quarter. Even with sophisticated accounting techniques, any estimate is necessarily so vague that companies will be encouraged to shift these estimates as a way of evading the controls.

And as present regulations bar businessmen from reaping any reward from increased productivity, they will inevitably discourage technological innovation and capital expenditures. No one is going to spend money improving productivity when he will realize no return. Where businessmen do go ahead and increase productivity—which is very desirable as a means of cutting the cost of living—they will be encouraged to hedge in reporting their gains in order to increase profits. And since productivity is difficult to measure, there is no way this can be stopped.

The businessmen most willing to defy the control apparatus will prosper—just as they have under past wage-price control programs. The more the businessman attempts to follow the goals supposedly imposed by the national leaders, the more unsuccessful he is likely to be. Prof. Walter Eucken effectively demonstrated that controls generate situations where economic activities prohibited by the state are actually in the public interest; that businessmen are expected to break the law as part of their corporate duty to show a profit. This is not a desirable situation for any country—it leads directly to the phenomena of organized crime in business, which we were glad to be rid of with prohibition.

Controls are bad for our country. They replace the consumer as the arbiter of our economic fate. And his replacement—the State technicians, the boards, guidelines, and agencies—cannot do the job.

As Field Marshall Herman Goering stated after the close of World War II:

Your America is doing many things in the economic field which we found caused us so much trouble. You are trying to control people's wages and prices—

people's work. If you do that, you must control people's lives. And no country can do that part way. I tried it and failed. You are no better planners than we. I should think your economists would read what happened here.

We in America need to think long and hard whether we want to go down the road to a centrally controlled, fascist state, which is the logical and inevitable result of the programs we are now following. Certainly, no one is planning to bring us to such an end. But one control gives rise to another, and a country can drift, almost accidentally, into a system of totalitarian control, with full government dictation over every important economic decision.

There is an alternative—neglected and misunderstood, but far superior to the fascist system that looms on the horizon. The alternative is a free market, with competition and desires of consumers once again setting the course in our national life. Freedom can work. But it requires more than an occasional banquet speech, or an imploring treatise from some dusty economist to be effective. Government must take steps to open the way for competition. We must reorient ourselves, away from controls—and back toward individual freedom in order to solve the problems gripping our economy.

Here are some of the steps which should be taken.

We must discard the out-dated notion that one business or industry is so important to the economy that it deserves protection and special favors from the Government. All subsidies should be ended. The many special interests which have been feasting at the public trough for many generations will fight this bitterly. But we must stop subsidizing inefficiency. We must serve notice that the only way businessmen can obtain profits is by serving the consumer, not by wheeling and dealing in Washington.

The farm subsidies, a sentimental gesture to a bygone age, which benefit mainly large corporations, must be ended. This will help reduce the cost of living.

Federal underwriting of private debt, such as the federally guaranteed loan to Lockheed, must be halted. In order for proper economic restraints to operate, incompetent managers should be free to go bankrupt and be replaced by more astute businessmen.

Franchised monopolies, such as the telephone companies, and outright Government monopolies such as the post office, must be opened to competition. This would improve services and reduce their cost.

Government-run businesses should be sold on the open market. There is certainly no reason for the Government to be involved in the manufacturing of rum, or many sundry activities.

Out-dated regulatory agencies, such as the ICC, should be retired. And unequal imposition of bureaucratic guidelines by agencies such as the Federal Trade Commission should be ended.

The Wagner Act and other Government interferences in labor-management relations should be repealed. Let businessmen and labor unions work together freely in collective bargaining.

And the monetary system, which is the key to our economy, must be put in order. The gigantic Government deficits and never-ending expansions of the money supply must be called to a halt.

These steps, taken together with substantial and sweeping cuts in all taxes, would at once bring a halt to the rise in the cost of living, and at the same time provide a sound basis for prosperous growth,

all within a framework which provides the widest possible latitude for individual initiative. This would reverse the unwelcomed growth of government control over every aspect of individual life.

Senator HART. Thank you, Mr. Bond.

As we indicated at the opening, I would suggest a recess not to exceed 10 minutes. That would permit us to resume at 20 minutes of 12 m., in which time reactions and exchanges can develop.

Senator THURMOND. Are you running this afternoon?

Senator HART. Senator, I had hoped that we could sit until about 1:30 p.m., concluding then.

(A recess was taken.)

Senator HART. I think we could come to order.

When Professor Quigley and Mr. Bond return, they may join us in such discussion as has developed.

Let me remind those present that we are attempting to make a record and as our discussion develops, if we would keep that in mind, perhaps only one of us will speak at one time.

I realize that each member of the group must have felt as he listened to others the desire to interrupt. With the time remaining I think we can assure everyone that those thoughts that he would like to have voiced as one or the other participants were speaking, he will have an opportunity to do it.

First, Senator Hruska, would you like to react or direct some questions to one or another of the participants?

Senator HRUSKA. I should like to, Mr. Chairman. I have a commitment at 12:30 p.m. with a delegation, and an earlier one than that which I can transgress upon a little bit, but your offer is kindly accepted.

I want to join the chairman in welcoming back to our ranks and our presence the Senator from Tennessee. It is almost like old times. One of the first committees I served upon was one on which the Senator was very, very active, the Public Works Committee under the chairmanship of Senator Chavez, with Robert Kerr and Senator Gore. So we had many giants present in those members.

This discussion is very interesting. In some measure, I think it pretty well fulfills some of the situation that I tried to describe in my opening statement.

There has been, for example, in a considerable part of the formal statements as presented a discussion of the Nixon game plan and how inefficient and ineffective and how totally and dismally it failed, and then on August 15 he saw the light and did something that Congress asked him to do and exercised the authority that he was given.

Then we branch over in so many of the statements, even the very illuminating statement of the professor here, who takes us back 1,000 years, brings us up to date, and it is good to get that perspective. But to depend so heavily upon current events, to get into the problem of trying to cure and correct and remedy long drawn out causes, would throw us off gear.

There has been a discussion of the game plan where monetary and fiscal measures were invoked to cool off the economy and then to regenerate it, to overcome unemployment which comes into the picture, and so forth. It would appear, then, that the statements run something like this: "Then something happened which was not sup-

posed to happen. Simultaneously rising prices and rising unemployment."

Now, that game plan came in in 1969 and then, another fashion of putting it, after describing the terms of that game plan, that there was more involved than excess capacity and lower profits. Smaller output caused by rising prices in face of contracting demand meant fewer jobs and the result was an unemployment rate that rose from 3.3 percent in January 1969 to about 6 percent in recent months.

Of course, there was also reference to the tax cut of 1968, to the surplus of \$7.4 billion in fiscal 1969, and it is wonderful to behold. But let me suggest that there was another game plan and that was as a result of the flames of inflation that were badly, badly burning the social and economic structure that made their appearance in 1966 shortly after the heavy involvement of Vietnam. The annual expenditures for that operation alone reached a high watermark of \$30 billion and it was so bad that President Johnson ventured forth with a very anguished call to all of America and all of the world saying this cannot go on, and in his economic message of January 26, 1967, he named seven steps, and I ask unanimous consent, Mr. Chairman, that they be delineated and set forth in the record at this point.

Senator HART. They will be.

Senator HRUSKA. Some of them were like this. Congress should extend the Interest Equalization Act. There should be a special task force formed to study the ways of increasing foreign travel from abroad, travel into the United States. An expansion of lending authority to Export-Import Bank and urging other countries to undertake development of better ways to share resource burdens in the field of common defense and foreign aid, and so on. And not only that following this prescription for ills nothing happened except a continually greater flame and more flame and more inflation.

In January 1968 these seven steps or nine steps were repeated with five decisive steps this time on top of the seven. The five were this—An Executive order for the Secretary of Commerce getting authority to regulate foreign investment. This subcommittee had something to do with that because we had to carve out an exemption to the antitrust law to enable the foreign lenders to get together and agree to limit investment abroad.

And then the Federal Reserve was given power to tighten up on loans abroad and the Secretary of State and Secretary of Defense were directed to study ways to reduce foreign aid and defense expenditures abroad. And a committee was appointed to study tourism deficit. And then we were going to send representatives to foreign countries to exchange views about world trade, and so on, all of which were very ineffectual methods. They did not come to grips with the problem.

Now, it is true that unemployment went up. There is one reason for it. Over 2¼ million men engaged in the armed services and in defense-related industries were without jobs because Mr. Nixon took steps to withdraw troops from the Vietnam area. They are down now to 139,000, maybe less than that, and by the end of this fiscal year there are going to be almost a million men fewer in the U.S. Armed Forces overall than there were in 1964 before the buildup.

If those 21¼ million men were at jobs, the unemployment rate would not be at 6 percent, I am informed, and it has been reported to me that it would run about 4.3 percent. Not bad.

I might point out that in 1961, for example, without a war being dissolved and without war being phased out and the necessity to have a transition from a war structure to peace structure, the unemployment percentage in 1961 was 6.7 percent and it was well over the 5-percent rate until when? Until 1965 when it went down to 4½ percent. By that time 150,000 men were on their way to Vietnam together with the necessity of arming and equipping them, and so on. And then it got down to 3.8, 3.3, 3.6, 3.5, and 4 percent and then in 1971, 6 percent.

Now, it seems to me that somewhere in these statements maybe it should be realized and there should have been some mention, in my judgment—maybe there is some reason for it—that it was more than a game plan involving the Federal Reserve Board and the cooling off of the economy, et cetera. There were many other massive factors and they should be cranked into our thinking so that we get the idea that what has been done on August 15 and after that was meant to deal with a situation brought about by a special set of circumstances.

I imagine some parallel could be found in the aftermath of the Korean war, the aftermath of World War II, perhaps, but nevertheless, when you have these special circumstances, I do believe that in order to get the full impact of it, so that we can be governed in an objective way and in a well-balanced way in seeking remedies, we will not take a specific thing and say look, look at this pimple. The body is so completely diseased. There is a pimple.

The fiscal year 1969 was pointed to by way of illustration. Why was not the fiscal year 1966 taken up, for example, and 1967 and some of the other years? You see, to choose a single, isolated point does not lead to a very good basis for generalization.

Maybe that can be overcome and maybe it will be in other statements, and in other testimony. I would hope so. I would hope so.

On the score of this being a presidential year, and we should not be defeatist and say we are at the crossroads, there is a crisis and let it go at that. We ought to do something about it, and say it is politically impossible. We should not take this in a political sense. I am not alone in making that statement, and in speaking as I did last September, there was a hearing and the chairman was there. He had suggested we ought to get after this concentrated industry, break it up. No lesser a person than Senator Proxmire, chairman of the Joint Economic Committee, said, "In fact, I would say"—he commented on the compelling case that was made for breaking up such economic concentrations as harmful, although he recognized that some of it is helpful. And then he said, "In fact, I would say it is so compelling that even if you were disposed to break it up," that is, the concentrated power, "you probably could not succeed with the Congress or the President or any man who might be President."

I do not rely on Mr. Proxmire's statement or on my own. Review the legislative and executive record of the last 40 years. These problems are not new. They have been there a long time, a long, long time.

Why was not something done? Because it is politically unacceptable and most difficult. I do not deny that there would be a desirability for it. Maybe so. Maybe so, in many of the points, but politically, and we are governed by politics a great deal, and thank goodness we are rather than having a strong man telling us what we should do and what we should not.

Now, then, on the matter of Government intervention, Professor, you made a fine statement. I am going to steal it and use it sometimes in some of my speeches to chambers of commerce and other groups and universities to show that Government intervention is not new.

On the score of tariffs, and there is a large part of our troubles, in the world of tariffs and our international relationships, that is why we had to go into the international monetary system to which Mr. Bond referred and we have one of the authorities of the present generation on fiscal matters and international trade in the person of our guest here from Tennessee, but on that score when we say Japan has demonstrated an increased efficiency and, therefore, they are coming in with all these imports. We can remember two very homely examples. It is not only tariffs. We could abolish tariffs as everybody else did and if everybody else abolished nontariff agreements but Japan ships over a Toyota car to San Francisco and it costs \$2,000, and when the Ford Pinto, which is the Toyota counterpart, is shipped to Japan, it sells for \$2,000 at San Francisco and goes to Tokyo and sells for \$4,000 because Japan has put not a 10-percent surcharge but the difference between \$2,000 and \$4,000.

And then we get into the homely example of what is very important in my country, export of livestock to Japan. They made the announcement not too long ago that they were abolishing the prohibition, the embargo on livestock. So one of our constituents out my way tried to ship a calf over there to Japan for ultimate breeding purposes and he found that the price of that calf was \$135 but when it arrived there and before they could land it and put it on the market, they had to pay a tax of \$135, border tax, or whatever they call it.

Well, now, that is pretty good Japanese efficiency. Both of those examples are. And Mr. Nixon said to Mr. Connally, we are not going to put up with that any more. We cannot because we are running behind in our international balance of payments and we need some of those jobs.

And here we have the steel companies. We have 30 percent of the domestic market furnished by people abroad and the unions as well as the steel companies joined in the effort to put some kind of a voluntary import quota for the purpose of saving jobs in this country. We cannot complain about unemployment and then export jobs for too long. It will not get that way.

So the thrust of the idea that I tried to express is this, that this is a widespread problem and we cannot zero in on what is happening since 1969 to now or since August 15 to now and the viciousness of controls, temporary as they are, and say as a basis, here is the basis for saying we must break up concentrated industries. That problem was here 50 years ago. It was here 25 years ago. We have explored it in the last 10 years, my colleague here to my right and myself. So the problem is well documented, how do we deal with it.

I have taken more than my 8 minutes.

Senator HART. There is no limitation. It was interesting and I am sure it will stimulate further response.

Senator HRUSKA. I am sure that is right.

Senator HART. I would like to state absolute agreement with Senator Hruska's basic point—that this is not a new phenomenon nor a new problem. Therefore, in our discussion the incumbency of this President should not be interpreted as suggesting the problem is the result of something that he or his administration did. This is a problem that has matured very slowly.

As Senator Hruska says, this committee and others have identified the increase in the level of economic concentration in certain elements of our industrial society. What do we do about it? That is point No. 1. Assuming the existence of a level of concentration which removes that element of our economic society from the discipline of the marketplace, what do we do about it? As Senator Gore suggests, even if we knew what to do about it, we would not have the guts to do it nor the freedom to do it, whether it is the influence of substantial campaign support or something else.

I suppose it will be hard to tell which is chicken and egg there. We really think we know what the problem is and what we ought to do about it, but it is a prescription that we are afraid to write. We will then claim that we have not figured out what to do about it. We will never really know whether we are or are not being unduly influenced by political circumstances.

I often wonder what I would say about the automobile industry if I were a Senator from Montana. It is not because they give me very much money, Albert. It is just a certain hesitancy about the prescription.

That is the end of my speech. But may I ask those who joined us this morning if there is agreement with the point that Dr. Hoffman made—the notion that size eventually will defeat itself, and, therefore, without any undue exercise of Government controls, there is a break-off point in the accumulation of the position of concentration, if that is wrong.

As he put it, precisely the opposite is true. The economic advantages are mainly and increasingly on the side of greater and greater economic scale and without limit. The tendency toward concentration is not self-correcting. The problem will not go away and business itself is powerless to stop it.

Does anybody want to react to that?

Mr. QUIGLEY. Mr. Chairman, I think that when men of good will make statements, their statements generally are true. But they are true of different parts of reality, and by simply broadening the area of reality you are looking at, a true statement comes to seem quite inefficient and unsatisfactory. And I certainly think that to take out of context his statement, that there are no limits on increasing efficiency with increasing size, violates not just all business experience but all of the experience of the whole cosmos. The dinosaurs became as big as they possibly could and as they became bigger and bigger they became less and less efficient.

I think there is no doubt that past a certain point increased size leads to decreasing efficiency and for a very simple reason. The larger the size the more energy and resources must be devoted to internal

communications in order to establish the coordination of the entity itself.

In any organizational structure, the internal coordination of the structure is always the major problem, and this demands more and more resources as size increases.

To us looking at it from outside of the whole thing, it frequently does look as if, let us say, a big corporation is more efficient than a small one, but that may well be because the big corporation is in a better position to manipulate and control its context, particularly its economic context. In other words, it gets better rates, for instance, on borrowing money and it gets all kinds of preferences of all kinds of things on mass purchasing of materials.

For instance, it is quite obvious in business, it always has been, if you buy more of something you get a cheaper rate per unit and it is these kinds of things which are not really measures of efficiency but measures of size.

So I think that that should be accepted with a considerable grain of salt, that there are no limits to increasing size being more efficient. Again and again we have seen small enterprises come in and they are really doing a better job than a big one, but they collapse and they collapse because they cannot get credit, they cannot get favoritism, they cannot get subsidies, they cannot get all kinds of things which the big one gets as a matter of course.

You can see that in your own life. You have to pay 8 cents if you send a message across town, but if you are a big corporation you can get into third class and you do not have to pay 8 cents. I see this in my own efforts to do my own work because I am not a corporation. All my costs are paid by me and are not tax deductible. If I were a corporation, they would be tax deductible.

I spent 6 months in England this year to do historical research. That is right out of my pocket and it is not tax deductible. If I write a book on which I earn money and use this material, then I can crank it in as a tax deductible thing, but a businessman can get this, get his steak dinner, get his hotel room, all kinds of things as tax deductible items immediately. He does not have to show that that particular business trip was one that will earn income and not get the deduction until it has definitely shown that it earns income.

These kinds of benefits go to large concerns because of the ability to manipulate context and are not marks of efficiency.

One other thing——

Senator HART. Say that again. These benefits go——

Mr. QUIGLEY. These benefits arise from the size of the enterprise in terms of size, not in terms of its efficiency, in its ability to use resources and turn them into a product.

Senator HART. Even if the structure itself were inefficient, it does not lose the power, political and economic.

Mr. QUIGLEY. No. Its political and economic power continues to grow as it gets bigger and bigger and it is this which makes it function with success. In other words, a small corporation, a hamburger stand goes bankrupt and it is dead. And it goes bankrupt every day. But nobody is going to let the Penn Central or Boeing go bankrupt. It is that simple. It is not a mark of efficiency.

Senator HRUSKA. It is not what the bankruptcy court shows. They are bankrupt.

Mr. QUIGLEY. Yes; I know, but—

Senator HRUSKA. They cannot put them in jail.

Mr. QUIGLEY. They are not going to go out of business.

One other point, something that you just made in reference to what Senator Gore had said.

I think generally that narrow interest groups tend to be stronger politically than general interest groups, wide interest groups. For example, inflation always injures creditors. We are all of us creditors in the sense that we are looking forward to fixed pensions on retirement or to insurance. As prices go up, the value of money falls and the value of our retirement expectations is dwindling but it would be quite impossible to organize the people of the United States who are looking forward to retirement on fixed incomes as a group of an anti-inflationary character, although there is an enormous number of them and it is a general interest thing. On the other hand, a smaller group of people who have an interest in inflationary steps can work at it much more effectively.

The same thing is true of consumers. If you are a producer, you have special interests. Even if you are a large multifunctional corporation, you are nevertheless producing a small group of items and you can get the kind of help and subsidies and other things that you need, favors of all kinds, in terms of that small group of activities, where everyone is a consumer, but you never can organize everyone in terms of being a consumer. If we could, then we would have no problem. We would organize the consumers, we would organize those people who have in the future retirement on fixed incomes as an anti-inflationary force and we could control inflation. But this is one of the problems that we deal with constantly.

Senator HART. I did not mean to take you out of context.

Mr. HOFFMAN. You did not.

Senator HART. I think the exchange got it straight.

Senator HRUSKA. Mr. Chairman, I believe we will have to answer the quorum that we have before us. Would you indulge me just a little bit?

Senator HART. Yes.

Senator HRUSKA. On the score of the passage read from your paper, Mr. Hoffman, this thought occurs to me. Is it true that there is no limit to the size of a company? I wonder about that, because if all of the infallibility, and if all of the all powerful attributes are wrapped up in size, we have to meet up and explain this phenomenon.

Here is a list of 200 of the largest corporations in America, or you can take the list of the 100 largest. They are not static. There are those who lead and there are new ones who come in. They are not static.

What becomes of the idea that they are so infallible and so powerful and possessed of special favors and this and that and the other thing? They do not do it. Why not? Because somewhere along the line is the management factor, the efficiency factor and the competition of those who are down at the bottom and they are pushing up. That is one thing.

The other thing has to do with is it all bad that there are these things that are in favor of companies like the mass buying and the advertis-

ing and the reciprocity and the deep pocket hits you. American wage earners today spend only 16 percent of their dollars for food and one of the biggest reasons for that is the supermarket which is a classic example of a conglomerate. They are a conglomerate business and I do not know that this Senator is going to advocate the abolition of the supermarkets and go back to the corner grocery store, the mom and pop store. It is not all good and it is not all bad. We have to be selective.

So when we say no more mergers and when we say size is bad, et cetera, and we are going to divide the markets, are you going to divide the market in the food business? I do not know that I would vote for that and I will go to my consumers and constituents and tell them why. Every time you can get that job done out of a dollar, save anywhere from a penny and a half to 2 cents it is a profit. That is pretty good. If the post office took charge of that operation I shudder to think what would happen under the old system. Maybe within the new corporation—put it in the hands of somebody who controls it and see what happens.

Mr. HOFFMAN. Can I defend my statement very briefly? You did not take it out of context. All I can do is point to the consistent trend toward greater concentration.

Now, there are many exceptions to it. Of this I am well aware, and I certainly would not favor, Senator Hruska, a breakup across the board and going back to small business. That is not it at all.

One thing I would like to say before you leave, Senator. I have not meant to put my opening part in a political context. It is not the Republican administration which has failed—nor the Democratic administration—to cure this thing. I think it is the failure of the new economics. Nixon tried everything, as the Democrats did, and we still have rising inflation and rising unemployment. So I did not mean to put my opening remarks into a political context. Neither do I think, Senator Hart, that it is possible to cure all our troubles with trust-busting. That is a longer time thing.

I wanted to make that clear before Senator Hruska left.

Senator HART. You did make that point.

Mr. GORE. Mr. Chairman—

Senator HRUSKA. You made that point.

Senator HART. I would hate to read the note that was sent us.

Off the record.

(Discussion off the record.)

(A recess was taken.)

Senator HART. Gentlemen, we for the moment in any event, will proceed without Senator Hruska. As he indicated earlier, he had made a commitment to see a delegation and then at 12:30 another subcommittee briefly will be meeting. He hopes to rejoin us before we get through.

Senator Gore, as we begin, and I suspect in our absence, the kind of exchange developed that will be most helpful for all of us. Let us not have any organized recognition business. Let just all of us react.

Mr. GORE. Well, quite aside from the question as to whether or not there are outer limits to bigness, I wish to point out that there are many advantages to bigness and many economic encouragements for growth. We certainly do not wish to penalize growth or success or

efficiency. But there are certain advantages to concentrated wealth, concentrated economic power, which it seems to me must be recognized.

Let us look, for instance, at the advantages of a large corporation in advertising. With the advent of television and national networks, it has become very difficult for a small enterprise to compete in the advertising field.

For many years now I have owned an interest in a small local feed mill manufacturing commercial feed. Four of 5 years ago the business decided that it would go into making a dogfood product. We found there were fewer cows and more dogs, as there are——

Senator HART. That is another monument to getting to 70 percent on the scale.

Mr. QUIGLEY. Yes.

Mr. GORE (continuing). In this particular community. But when we went into the economics of it, we found it utterly impossible to compete with the nationally advertised dogfood product, the ads on television of the nice fluffy puppy and how he liked a particular brand that was on the counter of the supermarket. Our product could not get there, nor could the customer hear about it in such an attractive way in the middle of prime time.

I only offer this as one illustration, a simple illustration of the advantages of bigness in advertising by the way of current media.

Let me cite another advantage. Certain provisions of the tax law have made it possible for the concentrated capital of the oil industry to acquire with tax-free money a large portion of the coal production of our country. By tax-free money through a combination of the intangible drilling cost, writeoff, whatever that may be interpreted to be, the percentage depletion which actually is not related to the depletion of the product at all—it being merely a formula for tax reduction—and the ABC arrangement is developing in this country a monopoly of energy. I do not know what the outer limits of a monopoly of energy would be except the demands of the American people for electricity, for heat, for the power to turn wheels, to move, to build, to lift. I am not sure where the outer limits are but I can foresee them as being controlling.

We find a growing concentration of the economic power of a few over oil, gas, coal, boron, uranium, and the facilities for fabricating and manufacturing these different sources of energy both fossil and nuclear, into usable form.

Now, I submit, Doctor, that there may be an outer limit to growing monopoly. Those outer limits are the needs of the American people. But to come to my basic point which you surely stated, Mr. Chairman, even if we reach a consensus as to what should be done, as Senator Hruska quoted approvingly Senator Proxmire's saying, neither the Congress nor the President, whoever he might be, would approve.

Now, why is this? It is because of the equating of political power with economic power. We have gone so adrift from the concept of one man, one vote, now to equate political power with economic power, until as I stated, our elections reek with corruption and self-seeking financial operations. Until the Congress, until the President, until the country can free its elective process from the power of private money, then we are not dealing with the most fundamental

defect of our system. This is the greatest threat not only to economic democracy but to political democracy.

Senator HART. I buy the idea that all of us would be much better off if we could prohibit private money in political campaigns.

Mr. HOFFMAN. I should like to agree with the Senator when he talks about the advantages, if I want to call it that, of advertising, but since most of that money goes to our media of communication, and so on, I do not see much political likelihood of curtailing advertising expenditures, and if they were curtailed, I think business would go in some other direction. This is why it seems to me, Senator—I agree with you perfectly, but to me it must be attacked in a more fundamental sense. You have to preserve numbers of firms. I do not think you arrest this tendency on a piecemeal basis by tax advantages, if there are such, and advertising advantages.

That is all I have to say.

Mr. GORE. Well, I was not suggesting that advertising be prohibited. I was giving this as advantages of bigness.

Mr. HOFFMAN. Yes. I think we are both agreed. It is a real advantage and it goes on not between large firms and small firms but it goes on between big firms driving each other up the wall. I know what firms you were talking about when you talked about the dog food business. It is not the case of just a little firm competing against that power in advertising and merchandising. It is any of a half dozen firms which are large by any standard.

Mr. GORE. There are three, I think.

Mr. BOND. I would like to speak practically for a moment if I may.

I created a \$10 million corporation which certainly is not in the class of the \$100 million or the billion dollar corporations that we are talking about, over a short period of years. I am the principal stockholder and it was created from nothing. There was no initial capital investment, as a matter of fact. And I have found that I compete with one of the largest conglomerates in the country, a billion and a half dollars, or \$2 billion corporation.

I find that, yes, I am at a disadvantage under certain circumstances but at the same time, I have advantages. And that is true of advertising also. I find that, yes, they have national advertising, but I localize my advertising dollar, so I am very able to compete.

I do not see anything inherently wrong with business as long as it is efficient. I think Senator Gore has said if—if big business did not have political influence, then it would have absolutely no competitive advantage, especially in a society that has the accelerated base of technology which exists here today. No advantage whatsoever. As a matter of fact, I see as many, if not more, disadvantages. The large corporations have invested fantastic amounts of capital and capital goods over a long term basis and have to compete with the innovations that are taking place today in industry. I see absolutely no advantages except the advantage of political influence, which, of course, is true of the banking industry also.

By the way, there was a lot of discussion in reference to administered prices. I cannot conceive of price being administered by and corporation when there is no inflation. Inflation creates the ability to administer a price to a certain degree. But with no inflation, an administered price would only reduce the customers. That is all it would do. It would

be to no advantage for a large semimonopolistic corporation to administer a price in an economy where there was no inflation. They might increase the price of their product or service but they would reduce the number of customers who could pay for it.

However, in an inflationary economy it is true they can administer a price, but then only to a certain degree.

Senator HART. You may want to react as to whether or not the inflation part is not the consequence, though, of the economic strength of the concentrated segment.

Dr. MUELLER. I certainly think the experience in the last two decades, not just the events since January of 1969, pretty well explains how we got where we are today and administered prices by some segments of industry led us there.

More specifically, the experiences of the steel industry during the 1950's which was so well documented by this committee and by the Joint Economic Committee. They increased prices in the face of falling demand, this way so thoroughly explored, so thoroughly documented and so completely accepted by people who subsequently became key decisionmakers in Government—namely, the Council of Economic Advisers under President Kennedy—that in looking at this pattern of events, it is almost like a laboratory experiment. It was just inevitable once we had gone through this experience of the fifties that when—again, we went through three recessions and when the new administration came in in 1961, in a period of recession, which Senator Hruska explained, an unemployment rate of 6.7 percent, no war going on it was inevitable that this administration, then, which was going to get the country moving, as President Kennedy characterized it, had to deal with the problem of administered prices, recognizing that monetary and fiscal policy, expansionary policy, would not do the job alone.

So the guideposts were written into the first economic report of President Kennedy and then predictably, the first industry to violate that guidepost was the steel industry—up to its old ways. After a non-inflationary wage settlement for the first time in a decade, in early 1962, the steel industry came up with a price increase and this behavior made the guidepost operational. From then on, other industries with discretionary power and labor with discretionary power, from time to time, were jawboned in exercising restraint.

I think the failure of that program as it was administered then would have, even in the absence of the demand-pull inflation that I think brought us to where we are today more rapidly than otherwise, even had that not occurred, new steps would have had to be taken because the guideposts policy was not an effective way of dealing with administered wages and prices.

But certainly, the experience following the balancing of the budget in 1968 and a strict monetary policy in 1969 demonstrated again—just like a laboratory experiment—there was something wrong with our old theories, that simply slowing up total demand would not bring about the kind of result that Mr. Bond predicted. Despite the fact that companies decreased the total amount of their goods demanded when they raised them as has happened to steel and other industries, they found it, of course, profitable to raise them because

they more than made up for the amount of lost sales by the added price increase.

So I think that this whole course of events leading up to August 15, and these basic factors have been in the ring now for a long time and certainly in my statement—although I certainly am very critical of the way the new economic plan is operating in a number of respects—I am also very critical of the way the new economics operated during the 1960's. It just was not right. It was so preoccupied with just wage and price policy, never any real concern with competitive concerns, no concern with income redistribution problems, as Senator Gore pointed out so well. In fact, the whole policy was for more regressive taxation rather than progressive, and this is creating a whole environment that is not just economic. It is people's attitudes, and as a consequence, it is impossible to expect, you know, the Archies of the world that everyone is now becoming familiar with, to be reasonable.

Archie probably makes \$10,000 a year and some people think that is a heck of a lot of money for a guy like Archie, but you cannot tell someone like Archie Bunker to not go out and get as much of a wage increase as he can because—I assume he belongs to a union—as long as other segments of society are reaping very large profits, nonwage incomes, practically untouched.

So I think the heart of the problem is the presence and use of economic power. I want to stop my statement here, but I certainly agree with you, Senator Gore, and particularly with what you said about the political interrelationship of the two.

MR. BOND. May I answer that?

MR. QUIGLEY. You can answer me simultaneously.

In reference to Mr. Bond's statement that administrative prices function only in an inflationary period, I would like to contradict that. Of course, the words "inflation" and "deflation" have numerous meanings. I am using them to mean falling demand, whatever prices do. If you have falling demand and you respond to it by lowering production while maintaining prices, then you have the administrative price situation and that is why we have the whole problem of price parities between industrial and agricultural products. If you look at history from 1927 to 1937, for example, you see very clearly that areas of administrative prices were reducing their production and maintaining prices where the competitive areas were maintaining production but dropping prices, and in some cases even increased production.

For example, a wheat farmer in order to maintain income might try to produce more wheat at half the price. But it is the price that responds to the decreasing demand, where in an administrative price situation the price doesn't respond as much as the output.

MR. BOND. I recognize that time is a problem here and rather than go into a lengthy discourse, I would be willing to provide the committee and its chairman with documented evidence to the contrary.

I would also like to say that there is absolutely no evidence that shows the concentrated industries have increased their share of the market over a long period of years any more today than in the past.

In addition to that, if you would look at the largest corporations that existed 20, 30, 40 years ago, most of them no longer rate today whatsoever with all of the help that they have been given from the government.

Mr. HOFFMAN. May I challenge that?

I think the figures, Dr. Mueller, that the Federal Trade Commission provided on concentration of control in American industry contradict that, my fellow panel member. The figures in 1940, what was it, 1,000 manufacturing corporations had 60 percent of the assets and in 1969, what is it? Two hundred have.

Senator HART. 200 have what, about 60?

Mr. HOFFMAN. The same percent.

Dr. MUELLER. I would put the figure nearer two-thirds at this point. But on this point that Mr. Hoffman made about the fact that this increasing concentration is not itself corrective, I agree completely that there isn't anything built into capitalism that protects it from itself. Mr. Hoffman and I have been friends for a long time and we have discussed this topic for more than 10 years and I am persuaded by him.

But what factors I consider are partly those he mentioned, certainly the drive of management for greater size and scope, and an environment in which they can do this through unrestrained merger activity. Plus the fact that although there aren't increasing economies of scale beyond some point, there are also no very serious decreasing economies of scale. So that the enterprise with these other motives can increase its scope in one way or another and, as Mr. Hoffman said, the facts simply demonstrate that this is true, that they have been increasing their total share of the economy.

I concede Mr. Bond's point, that market concentration trends are a mixed bag, and there are some very encouraging things about this. Some of the industries that have the greatest economies of scale in production have not been increasing rapidly in concentration and some have eroded. The real problem industries are in the consumer area where advertising is so terribly important that there is a combination of real and other advantages of large-scale advertising that are propelling concentrations increases in the consumer industries across the board.

But while concentration isn't increasing in these basic industries, like steel, and so on, neither is it decreasing significantly, and this is where I agree completely with Mr. Hoffman, that some restructuring is required if we are going to have effective competition because there aren't any natural forces that are going to erode concentration sufficiently to bring about effective competition.

Senator HART. I wonder if—let me ask this of Professor Quigley. In the civilizations that you reminded us have disappeared or have become footnotes or whatever happens to them, are you able to determine whether they were unable to see the deterioration and the decline or saw it and didn't understand what to do about it, or saw it and thoughtful people understood what should be done but some kind of force was at work that prevented them from doing it?

Mr. QUIGLEY. I think generally people see symptoms more than causes. Someone pointed out that price increases are perfectly obvious to all of us. What is behind those is what is disputable and it is very difficult to see that and it takes a certain amount of training to look through the symptoms at the causes.

Generally what happens that shows that civilization is heading toward the rocks is that people begin to shift their allegiances.

To take the history of Rome, Rome didn't collapse really until the fifth century. Their economic crisis was in the third century. But in the second century large groups of people were abandoning Roman culture and abandoning classical civilization by joining voluntary groups that didn't care anything about it. This was marked by the rise of the Christians.

When people begin to opt out of a society, there is something wrong with the society. This is happening increasingly today, as Senator Hruska told about the veterans coming back from Vietnam and being unemployed. In 1945 and 1946 we had enormous numbers of veterans come back and they all took advantage of the GI bill, because they had faith in the system. They knew education was necessary to get ahead in the system. Today we have the people operating these things madly calling up discharged veterans trying to get them interested in the GI bill to do something. I have a son who is a veteran and they are calling him up all the time. He has got a job but they want him to take some kind of training in a higher level vocation or something of that kind. This indicates an opting out.

Now, we have had this before. For instance, we have the hippies today. There is nothing new about these. In classical antiquity they were called cynics and they were called cynics which was the Greek word for "dog" because they had no sense of decency and they would do things on the pavement of the street that only a dog would do. They had sex in public and all these other things, and they were therefore called cynics. That is people who opted out and rejected their society.

Eventually those hippies never got anywhere and never created anything new, but hundreds of years later when people opted out to go into the Catacombs to become Christians together, they did this because they would have the things I am talking about—emotional and social companionship. They were in touch with what seemed to be moment-to-moment realities and they were no longer committed to remote abstractions such as the Roman Legion, the Roman Emperor, the economy with its great estates operated by slaves or servile labor. They didn't care about those.

The worse thing is when people begin to shift their allegiance to smaller groups and no longer have that allegiance to the big things they know. I am talking about Western civilization. Nobody has ever had much of an allegiance to Western civilization but in Western civilization people have had a legal entity, the state, as a focus of allegiance. Recently there has been a drastic decline in allegiance to the state.

I know students who are perfectly decent people, but they bristle every time they see the American flag, and, when some oil company put decals of American flags on the back of people's cars and these were parked along the street and students, would spit at it or something like that.

I say, "This is a terrible way for you to behave. You are a decent person, decently brought up. You have behaved yourself and yet look at the way you are acting about the American flag." They say it is Fascist. I say, "what do you mean by that?" They don't know what they mean by fascism, but the point is that emotionally they are opt-

ing out of our society and they are doing it for many reasons. That is a great danger sign.

Mr. CHUMBRIS. Mr. Chairman, may I put a little focus on this colloquy here because maybe what Mr. Bond is referring to as concentration of administrated prices might be a little bit different.

Mr. QUIGLEY. I think it is to some extent.

Mr. CHUMBRIS. I refer to our concentration hearings in 1964 where we had these outstanding witnesses. First, we had Mr. Mueller, who is here today. We had his assistant, Harrison Houghton, who is over there in the audience. Walter Adams, Professor Adelman, John Blair, Corwin Edwards, Gardner Mean, Ralph Nelson, Lee Preston, Irwin Selzer, and Dr. Fred Weston, outstanding men who have been before us time and time again.

I would like to read from Professor Adelman's statement on page 225 which might bring us a little bit in focus. He says:

We cannot for reasons I set forth in the statement add up—we can't weigh and add up product concentration ratios, and this is a fairly serious shortcoming. At any rate, if we do what we can do, which is take frequently distributions, there seems I think some tendency to decline over the period '47 through '58. We have no corresponding figures for earlier years whatever. And indeed, even between 1947 and 1954, the comparability presents some formidable problems on which my colleague this morning, Mr. Nelson, is an expert and if I may say so, a somewhat unwilling expert. He sweated and he groaned for all of us in trying to reduce these figures to some kind of order. I think he succeeded but as we used to say somewhat heartlessly during the war when another man got hit, I am glad it was him and not me.

Then he goes on and says:

At any rate, we have, if we look at product concentration figures, some apparent decline. If we look at the industry concentration figures, no decline or increase, and I think these can be reconciled on the hypothesis that there was a certain amount of diversification by the larger firms into other product lines, but at least this hypothesis would explain what has actually happened but also what is important is to remember there isn't a great deal to explain.

And he goes on and starts distinguishing between "concentration" and "overall concentration" where you may get a different picture.

I noticed that you used the word "administrative" prices. The term as we had them during Dr. Mean's hearings was "administrated" prices. Now, are you making a distinction?

Mr. QUIGLEY. I mean administrated prices.

Mr. CHUMBRIS. I was wondering when you used "administrative," you may use it in the context that the Government itself is the administrative focal point in reaching—

Mr. QUIGLEY. No. In fact, I got that from Gardner Mean's work.

Mr. CHUMBRIS. I just wanted that clarified for the record.

Senator HART. It may well be that that is and will be when you give it to us the basis for the distinction.

Mr. BOND. Insofar as we are taking into consideration the historical and social implications of our problem—in my studies of history, I have found that man blossoms best individually and culturally when he has the greatest degree of freedom. So I use that as my basic sociological premise.

There really have only been two periods, two lengthy periods, in the history of civilization when there was a greater degree of freedom than there were of restrictions and they were the Golden Age of Greece

and the industrial revolution which led to the United States of America, and the most affluent society that civilization has ever produced.

What it seems to me is being questioned here is not whether we should have controls or not but what type of controls we should have. And controls historically speaking constantly perpetuate themselves. They never go backward, until there is a revolution or something of that nature. And also for purposes of this discussion I would like to define two terms. We have been discussing free market and we have been discussing capitalism. I guess in the laissez faire sense of the word. There has never been in its true definition a free market and there has never been true laissez faire capitalism in the history of this country or any other. There has always been government intervention. And the more government intervention, the more it distorts the market economy.

Mr. GORE. Mr. Chairman, I would like to call attention to comments by Drs. Quigley and Mueller. Dr. Mueller gave details of the reasons in his view for the attempted economic controls of not only phase I but prior periods to check inflation, all of which seem to me, and in view of Dr. Quigley's observations, to be dealing with symptoms instead of causes.

The current and recent past policies, so-called anti-inflationary policies, seem to me almost invariably to be dealing with the problem symptomatically. The formulas for correction were based upon the unrealistic notion that too many dollars were chasing too few goods. And yet where has there been a scarcity of goods for the past decade? Can anyone name a scarcity? Automobiles? Look at the parking lots. Where is there a scarcity?

Mr. BOND. Well, I think it is a matter of productivity. I don't think it has anything to do with the inflationary forces. There is no scarcity so long as there is productivity and there has been productivity along with the inflation all along. It has only slowed down drastically in the last couple of years.

Mr. GORE. Which is by way of confirming the point of view that I am advancing and which Dr. Mueller is advancing, that the old remedies still are dealing symptomatically and have not come to grips with the basic causes of our problem, and I take it the purpose of this hearing is to separate the symptoms from the causes and try to arrive at the underlying conditions and trends in our economy.

We must first understand the problem before we can provide a solution for that problem. The ability to implement the solution, even if we understand it, is another but different limitation.

Dr. MUELLER. I wanted to comment briefly on Mr. Chumbris' recitation of the findings of those hearings back in 1963.

Mr. CHUMBRIS. 1964.

Dr. MUELLER. The fact that market concentration isn't increasing every year, in every industry, doesn't really comfort me. The steel industry has been a problem since 1903, when United States Steel was formed.

Mr. QUIGLEY. 1904, I think.

Dr. MUELLER. 1903 or 1904. And this experience of the 1950's occurred with the levels of concentration that existed at that time and there are other industries which are extremely concentrated today

and have been for a good many years and we haven't done anything about them.

The reason we have never really been as concerned with this aspect of market power is that the United States is sort of unique in the Western world in being content with high levels of unemployment, and it is only in the 1960's, I think, that we really began to push for a policy of low unemployment in peacetime. But historically, in modern history, since World War I, we have had very prolonged periods of substantial unemployment except in wartime, and this structural problem I think has been at the core of it. Keynes recognized it but the Keynesians didn't. He wrote his general treatise that you don't worry about structural problems when you have 15 million people out of work. The big thing then is to use monetary and fiscal policy and he is right. But when you try to get unemployment from 6 down to 4 or 3 percent, the structural problems, imperfections in the market, not just structure of industry but the structure of our manpower markets, and so on, does become extremely important.

If we are going to have a system in which we truly try to maintain **low levels of unemployment in peacetime**, my view is that we must do something about these structural problems. There are two choices. Either try to make industry more competitive or deal with behavior, **recognizing as we have historically**, there are some industries that are monopolistic and we try to regulate them. We don't do it very well, but that is where we are today and that is why the choice is between controls or competition. It is not a choice between corner groceries and supermarkets. We don't have to, you know, atomize industry, as Professor Hoffman pointed out. We can enjoy these economies of scale far short of present levels of concentration, but not go back to an atomistic industry that as Mr. Bond said, never existed anyhow.

Senator HART. Doctor, you made the same closing point, I take it, that Dr. Mueller just made. We have reached, for whatever the reasons, a period where it is an either/or decision. Do you by restructuring accelerate the competitive forces or given the power that the concentration industries exercise as private government, you use public government to control.

Mr. HOFFMAN. There is a difference, Senator. I think between my friend, Dr. Mueller, and I on this. I don't think it is possible to immediately or quickly restructure the economy enough, even if you split all the corporations into three or four or something, to solve the problem of unused resources. You are still going to have unemployment.

I think what concerns me is the prevention of private monopoly so that we have enough competition in the usual sense in terms of prices and output. But I can't quite agree with Dr. Mueller that restructuring the economy in any likely way will cure our unemployment problem. I don't think it will.

Dr. MUELLER. I guess we come to the same conclusion for somewhat different reasons. I understand Mr. Hoffman's position. He thinks there are good reasons for bringing about restructuring quite apart from the problem of unemployment and inflation. Is that correct?

Mr. HOFFMAN. Yes.

Dr. MUELLER. I do, too. And these are problems of income distribution and the relationship between economic power and political power,

and so on. But I think this matter of income distribution that comes about through decreasing, say, the power of the drug industry, has important implications for the problem of unemployment, not just because drug companies are causing inflation by their excessive prices but because of the whole impact that the presence of these kinds of excess profits has on people's attitudes, particularly as I mentioned before, people who live entirely on incomes and can't get away with this sort of thing. It is just unreasonable to expect that in the case of unions with market power, and some certainly have it, not all, that you are going to have them exercise restraint in the use of this power if you have an economic system that is so unfair economically in so many respects. That is why I mentioned the need for a comprehensive approach to this policy that relates to income redistribution. The monopoly problem is an important one both in real terms and even psychologically.

Probably some individuals are using that as an excuse. They say, well, I would act more reasonably if GM didn't make such excessive profits, and Sterling and other drug companies. But you can't even call their hand as long as you let others get away with this. So I don't think we are as far apart as it might appear, and in some respects I just think Dr. Hoffman is wrong as he thinks I am wrong. But there are these other good and sensible reasons for industry restructuring that this committee has dealt with a good deal in the past, quite apart from the inflation problem, and I guess Dr. Hoffman applauds these efforts.

Mr. HOFFMAN. Yes.

Mr. CHUMBRIS. Mr. Chairman, if I could comment—

Senator HART. So that our guests can think about it—it is a good point—before we close I should note that the record will stay open for afterthoughts, but if before we close now, and with others present, there is something or several points that any one of you would like to make, I think we ought to make the rounds.

Mr. CHUMBRIS. The only thing I was going to add, Mr. Chairman, the names of the witnesses that I listed were only for the first day of the hearings that we had in 1964. We have 11 volumes. But among the witnesses that we had at later times was our new chief economist, David Martin, and I believe Dr. Anderson also testified during the course of our eight different subject matters that we looked into. I think this is a good time to introduce our new economists. This is the first hearing we have had since they joined us in August, I believe.

Senator HART. I am glad you did. We are running a test. We are getting witnesses who came in and told us what to do. And we are putting them on this side of the table and telling them to go ahead. I sense there is a little difference in the roles.

Senator Gore.

Mr. GORE. I believe one angle to which we have not directed attention is a direct consequence of economic concentration, and that is the concentration of wealth. We have made several references here to income distribution. We have not dealt with the problem of concentration of wealth or distribution of wealth. Our tax laws unfortunately now contain only a modicum of progressivity left. While the rate on earned income, for instance, has been reduced with a brief period from

91 percent to 50 percent for the affluent, the tax take of the income of the average American has been greatly increased.

Time after time I have noticed that after the revenue of the Government has been reduced by a reduction in the tax liability of the affluent of our society, about 2 years later there is a cry for additional revenue and then a form of regressive taxation is proposed. We see another such cycle in the making now, a recent tax reduction, and now the Treasury Department is working frantically and furiously to prepare a value added tax which, if adopted, will make our tax system even more regressive.

Now, when you combine the favoritism of our tax laws and the power of economics and the trend toward economic concentrations, you have the ultimate result, Dr. Quigley, of unfair opportunity.

My friend across the table refers to freedom. There is a condition of freedom that is very important: Quality of freedom; equality of opportunity; freedom of opportunity. When we have programs and policies underlying our whole society and economy involved, resulting in a reconcentration of wealth into the hands of a relative few, and all of the other factors that we have discussed here we arrive at the conditions which have turned off a number of our youth.

This points to a very grave danger to both economic and political democracy.

Senator HART. Professor?

Mr. QUIGLEY. This kind of difficulty appears not just in the laws but in the way they are administered, as you pointed out.

For example, almost all of my friends who are earning between \$20,000 and \$40,000 a year have been visited by agents from the Internal Revenue in what seemed to be essentially shakedowns. They are demanding more money and they are prepared to make a deal. And yet we constantly hear from the Internal Revenue that they have no manpower whatever for going after the people who are paying very little or no taxes.

The last time I spoke to Bob Kennedy he was talking about this matter—he got very emotional about things and he was very emotional about this—that he knew six or seven people who were getting more than \$1 million a year income and paying no taxes. He named another one who had an income of \$5 million a year and paid \$640 a year in taxes to the IRS. This is the kind of thing you are talking about. And they can't go after those kinds of people for various reasons, and this talk about freedom doesn't mean anything.

I have just as much freedom as a multimillionaire to fight the Internal Revenue but I certainly don't have the money to finance an appeal to the Supreme Court.

I mentioned a moment ago my trip to Europe. In 1961 I spent 4 or 5 months in Europe and I tried to deduct that and they came to me and they demanded more money and went into all this business.

I could have fought them. It is foolishness to fight them. What you have to do is make a deal.

The deal I made was that I would deduct this over 7 years. They said you deduct it all only after you have made some income from this trip and then it must be deducted spread over 28 years.

Well, I spent \$3,000 going to Europe, you know, and this doesn't amount to much over 28 years. I finally said this book is going to be

dead long before 28 years. It will be dead in 7 years, and I was right, because it was dead in 6 years, out of print. So I deducted it over 7 years.

Now, this is the kind of thing where freedom on paper sounds fine but you are under economic and other pressures.

I do discern, I think, some kind of a consensus emerging here. I see a widespread feeling that controls are not effective and not advisable, but I do hear increasingly the word "restructuring" and I think there is a big difference between controls and restructuring. Controls means using the present existing structure.

Now, the Senator from Tennessee is saying that one of the places restructuring has got to be done is in the area of politics and I would agree wholeheartedly with that. As I said in my statement, we have got to go outside of the area of economics because if you are restructuring, you definitely must go outside. This is true of the problem of unemployment.

For example, the problem of unemployment could be resolved if American industry was less concerned with reducing labor costs and with increasing capital expenditures. From the beginning of America, in 1610, we had had a shortage of labor and we have accordingly always had the drive to replace labor by capital investment. And this is why we like to have always very large employment. But if, for every 100 men working in industry or working at jobs anywhere, we could put two more to work, we would drop the unemployment rate to the figure that Senator Hruska thought would be acceptable, 4 percent or so. But this requires a certain amount of restructuring. I do not think it involves breaking up existing corporations or anything like that because what determines what happens is the flows of incomes. No matter where they flow, they can be doing constructive work or they can be doing destructive work. But in order to change slightly the flow in directions of more constructive rather than less constructive activities we have got to restructure the flows. And I think that can be done without slicing things down or any of the drastic things which you fear and which I think we all fear.

Senator HART. Dr. Mueller.

Dr. MUELLER. There have been quite a number of comments about the apparent facts of life that make it politically impossible to do this or that, and I think that attitude is something we have to continually fight, lest we become so cynical about the possibility of reform that we quit trying.

The fact of the matter is that Senator Gore did remain in the Senate I believe three terms, which is a pretty long time, and from what I observed of his performance in the Senate during those years, he didn't change a great deal. He had the same basic attitude and took the same strong stand on these issues throughout the period.

My point is that there are people getting elected and there is a fairly hard core of Congressmen and Senators who believe strongly about these matters and from time to time take positions on them and vote on them. I was really very happy when as many as 35 Senators voted for the attempt to make the Price Commission more open, in supporting an amendment of my Senator Nelson from Wisconsin. The fact that you could get 35 Senators to take a position on this matter of corporate secrecy without a great campaign effort being

made to drum up support is encouraging. I doubt if you could have had 35 Senators take this position 10 years ago.

So I may be wrong but I think there are some encouraging things in this area as well as discouraging ones.

What we need is more leaders, more individuals who are willing to make an issue of this, because from where I am now, out in the heartland, as we like to think of it, but out in the boondocks as the people in Washington think of us, I detect a lot of concern about these issues.

I wish Senator Hruska were still here because I gave a lecture at the University of Nebraska where there was a great deal of interest and sentiment on these issues and they weren't kids that were opting out. They were students who thought that we could and should reform the system.

I am thinking as a citizen now, not as an economist, someone who is interested in reform—we must somehow get these basic questions debated. No one ever asked a presidential candidate on "Meet the Press" or anywhere else where do you stand on problems of economic concentration? The question isn't even raised. Or with corporate secrecy. A whole host of things.

I think some candidate of either party, hopefully both parties, or if we had three like in 1912, all three would take a position on this. I have been associated with individuals who have taken courageous stands through the years and although everyone in a sense is somewhat captive, I suppose, as you should be of your own constituency, our Senators aren't exactly hawks on taking resisting efforts with respect to tariffs on cheese and I would expect that from a Senator from Wisconsin.

As Mr. Patman said one time, for whom I worked in my first job in Washington, if you are from the First District of Texas, you are for oil depletion, but, I don't see how the rest of the country lets us get away with it.

What he was saying is that there is no reason for a Senator from Wisconsin or Michigan or Minnesota to be for oil depletion. He was just voting his constituents on that issue but, on other issues he is as free as the wind and he has been since 1928 and that same constituency could have had the most conservative, to use that term, person represent them as well and it was simply a difference in personality here that made all the difference.

So somehow we must get these basic issues debated or the only thing that is going to be debated is whether we are going to have price controls or not. That is what is asked in the Gallup poll and the answer of the American people is yes, we want price control.

Mr. QUIGLEY. We are getting close to closing. I would like to close on an optimistic note in a sense by agreeing with Mr. Mueller.

I do not think that our political system is hopeless at all, but this is one of the great difficulties I face. Four or 5 or 10 years ago I could tell students this and tell them how to go about doing something if they were disturbed with things and they would listen. Today they won't listen anymore.

Mr. McCarthy's campaign was born in my freshman class at Georgetown. I told them that any elected person has three problems—money,

organization, and enthusiasm—and you can win with any two of them. If you get organization and enthusiasm, you can win against money. And I further told them a lot of other things that will be an old story to many of you, that every election is determined by the group that doesn't vote, not by the group who votes, who are usually pretty evenly divided.

In the last presidential election there were millions who didn't vote. Fifty-two million who were entitled to vote did not vote.

Furthermore, I told them the nominating process is far more important than the election process. If you can name all the candidates who run, you wouldn't care who was elected. That is the way they do it in Russia, and yet you can't get students interested in the nominating process except in the national conventions. If it is a primary, you can't get the vote out at all.

Senator HART. I am not sure that is an optimistic note on which to close.

Mr. HOFFMAN. Senator, after listening to all these points of view, I am glad I am a panelist instead of a Senator, because you have to come up with something specific. It is easy to have a great many ideas. I don't envy you.

Senator HART. Mr. Bond.

Mr. BOND. Well, for the most part what I have heard today is our concern with the centralization of power in big business and very little discussion regarding the centralization of power in government which I am much more concerned with.

In reference to Senator Gore's remark about the reduction in income taxes from 91 percent to 50 percent, I don't agree with a progressive tax. I think the tax should be the same for all that can afford to pay and I think the loopholes which are the major problem in escaping taxes were created because of that 91 percent progressive tax in the first place. So the loopholes are what should be eliminated because that is how these people that you spoke about get away with not paying any taxes and don't contribute to the welfare of the country from that standpoint.

I think when we think in terms of taxes that the Government has to reduce its spending. I think there is a tremendous amount of waste in Government. That is easily documented. And we can reduce taxes for that reason.

And in reference to Professor Quigley's correlation of freedom and his inability to take Internal Revenue Service to the Supreme Court, I don't see what that has to do with freedom or business. That is a Government problem. It is too much power in the central Government again as opposed to the individual, not big business.

Mr. QUIGLEY. It is a differential power between individuals.

Mr. BOND. Yes; between Government and individuals, but it has no relationship to business whatsoever. The fact that one individual might have enough money to go to the Supreme Court and another might not is a Government problem. The structure of IRS could conceivably be changed because I have had a lot of experience with IRS.

As an example, I had a charge of civil fraud placed against me and some of my corporations and the charge was absolutely ridiculous,

but it didn't allow me to do business for about 4 or 5 years, and contrary to what our beliefs are supposed to be, you are guilty until proven innocent with Internal Revenue Service. Of course, since that time it never even got above the agent level. The agent simply backed down and said, "Gee, I just made a big mistake." I didn't recognize what had taken place, and the original case that the Government had went down the drain along with all the corporation's money we had to spend over a period of 8 years.

I think, gentlemen, what we have to do is reduce business' ability to influence Government and vice versa. I think we have to begin to look at business and the Government much the same way as we look upon the state and church. I think that we should embark upon a program to separate business from government as much as possible on a continual basis until there is a complete separation. I don't see any reason for business and government to be involved with one another. None.

Senator HART. We are going to have to have corporations "immaculately conceived."

Mr. BOND. No. No. I didn't mean it in that respect. Certainly we would have courts to arbitrate, no doubt about it, but I don't see any basis for legislation.

Senator HART. Well, for Senator Thurmond and Senator Hruska I want to thank all of you for taking this great big chunk out of your time and giving us this help. I will not go further except to say that you have made available to us information and suggested possibilities that should be helpful to us.

Mr. CHUMBRIS. Mr. Chairman, before you close the record, I understand we requested to put the 1970 law and the 1971 law into the record. (The texts follow. Testimony resumes on p. 80.)



Public Law 91-379
91st Congress, S. 3302
August 15, 1970

An Act

To amend the Defense Production Act of 1950, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEFENSE PRODUCTION ACT AMENDMENTS

§ 101. Extension of Act

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended—

Defense Production Act of 1950, amendment.

Ante, p.694.

(1) by striking out "August 15, 1970" and inserting in lieu thereof "June 30, 1972"; and

(2) by striking out "section 714" and inserting in lieu thereof "sections 714 and 719".

Infra.

§ 102. Definitions

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended—

64 Stat. §15;
67 Stat. 130.

(1) by inserting "space," after "stockpiling," in subsection (d); and

"Defense contractor."

(2) by adding at the end thereof a new subsection as follows:

"(f) The term 'defense contractor' means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense."

§ 103. Uniform cost-accounting standards

Title VII of the Defense Production Act of 1950 is amended by adding at the end thereof a new section as follows:

82 Stat. 279.
50 USC app.
2151-2167.

"COST-ACCOUNTING STANDARDS BOARD

"SEC. 719. (a) There is established, as an agent of the Congress, a Cost-Accounting Standards Board which shall be independent of the executive departments and shall consist of the Comptroller General of the United States who shall serve as Chairman of the Board and four members to be appointed by the Comptroller General. Of the members appointed to the Board, two, of whom one shall be particularly knowledgeable about the cost accounting problems of small business, shall be from the accounting profession, one shall be representative of industry, and one shall be from a department or agency of the Federal Government who shall be appointed with the consent of the head of the department or agency concerned. The term of office of each of the appointed members of the Board shall be four years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed. Each member of the Board appointed from private life shall receive compensation at the rate of one two-hundred-sixtieth of the rate prescribed for level IV of the Federal Executive Salary Schedule for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

84 STAT. 796
84 STAT. 797

"(b) The Board shall have the power to appoint, fix the compensation of, and remove an executive secretary and two additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The executive secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

80 Stat. 461;
83 Stat. 864.
5 USC 5315 and note.

5 USC 5101,
5361, 7501:
35 P.R. 6247.

"(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

"(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

"(e) Except as otherwise provided in subsection (a), members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private life shall receive compensation at rates fixed by the Board, not to exceed one two-hundred-sixtieth of the rate prescribed for level V in the Federal Executive Salary Schedule for each day (including travel-time) in which they are engaged in the actual performance of their duties as prescribed by the Board. While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the department or agency concerned.

"(g) The Board shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000, other than contracts or subcontracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. In promulgating such standards the Board shall take into account the probable costs of implementation compared to the probable benefits.

"(h) (1) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall not exceed 7 per centum per annum measured from the time such payments

5 USC 5101,
5361, 7501;
35 F.R. 6247.

80 Stat. 463;
83 Stat. 864.
5 USC 5316
and note.

80 Stat. 499;
83 Stat. 190.

Standards,
promulgation.

84 STAT. 797
84 STAT. 798

Cost-accounting
methods,
advance dis-
closure by
defense
contractors.

Interest
ceiling.

August 15, 1970

- 3 -

Pub. Law 91-379

were made to the contractor or subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

"(2) The Board is authorized, as soon as practicable after the date of enactment of this section, to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

Exemption.

"(3) Cost-accounting standards promulgated under subsection (g) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the proposed standards, rules, or regulations is transmitted to the Congress; if, between the date of transmittal and the expiration of such sixty-day period, there is not passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations. For the purposes of this subparagraph, in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of this paragraph do not apply to modifications of cost accounting standards, rules, or regulations which have become effective in conformity with those provisions.

Proposed standards, transmittal to Congress.

"(i) (A) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted the Board may promulgate rules, regulations, cost-accounting standards, and modifications thereof which shall have the full force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration of not less than thirty days after publication in the Federal Register.

Publication in Federal Register.

84 STAT. 798
84 STAT. 799

"(B) The functions exercised under this section are excluded from the operation of sections 551, 553-559, and 701-706 of title 5, United States Code.

80 Stat. 381,
392.

"(C) The provisions of paragraph (A) of this subsection shall not be applicable to rules and regulations prescribed by the Board pursuant to subsection (h) (2).

"(j) For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

Records, availability.

"(k) The Board shall report to the Congress, not later than twenty-four months after the date of enactment of this section,

Report to Congress.

concerning its progress in promulgating cost-accounting standards under subsection (g) and rules and regulations under subsection (h). Thereafter, the Board shall make an annual report to the Congress with respect to its activities and operations, together with such recommendations as it deems appropriate.

Appropriation.

"(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

§ 104. Loan guarantees

64 Stat. 800;

67 Stat. 129.

Limitations.

Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended by adding at the end thereof a new subsection as follows:

"(e) (1) Except with the approval of the Congress, the maximum obligation of any guaranteeing agency under any loan, discount, advance, or commitment in connection therewith, entered into under this section shall not exceed \$20,000,000.

"(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

"(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

"(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committees on Banking and Currency of the respective Houses at least ten days prior to the exercise of that authority for such use."

TITLE II—COST OF LIVING STABILIZATION

Economic
Stabilization
Act of 1970.
Standby
controls.

84 STAT. 799

84 STAT. 800

§ 201. Short title

This title may be cited as the "Economic Stabilization Act of 1970".

§ 202. Presidential authority

The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

§ 203. Delegation

The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he may deem appropriate.

§ 204. Penalty

Whoever willfully violates any order or regulation under this title shall be fined not more than \$5,000.

§ 205. Injunctions

Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this title, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue

August 15, 1970

- 5 -

Pub. Law 91-379

84 STAT. 800

mandatory injunctions commanding any person to comply with any regulation or order under this title.

§ 206. Expiration

The authority to issue and enforce orders and regulations under this title expires at midnight February 28, 1971, but such expiration shall not affect any proceeding under section 204 for a violation of any such order or regulation, or for the punishment for contempt committed in the violation of any injunction issued under section 205, committed prior to March 1, 1971.

Approved August 15, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-1330 accompanying H.R. 17880 (Comm. on Banking and Currency) and 91-1386 (Comm. of Conference).

SENATE REPORT No. 91-890 (Comm. on Banking and Currency).

CONGRESSIONAL RECORD, Vol. 116 (1970):

July 9, considered and passed Senate.

July 30, 31, H.R. 17880 considered and passed House; passage vacated and S. 3302, amended, passed in lieu.

Aug. 12, Senate agreed to conference report.

Aug. 13, House agreed to conference report.



Public Law 92-210
92nd Congress, S. 2891
December 22, 1971

An Act

To extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Stabilization Act Amendments of 1971".

Economic
Stabilization
Act Amendments
of 1971.

ECONOMIC STABILIZATION ACT OF 1970

SEC. 2. Title II of the Act entitled "An Act to amend the Defense Production Act of 1950, and for other purposes", approved August 15, 1970 (Public Law 91-379), as amended, is amended to read as follows:

84 Stat. 799.
12 USC 1904
note.
85 STAT. 743
85 STAT. 744

"TITLE II—COST OF LIVING STABILIZATION

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends, and interest. The adjustments necessary to carry out this program require prompt judgments and actions by the executive branch of the Government. The President is in a position to implement promptly and effectively the program authorized by this title.

"§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits or if it is otherwise necessary to carry out the purposes of this title; and

"(2) stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth.

Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities, and shall be consistent with the standards issued pursuant to subsection (b).

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

Standards.

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

Limitation.

"(c) (1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) scheduled to take effect after November 13, 1971, to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) was executed prior to August 15, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

85 STAT. 744

85 STAT. 745

"(2) The President shall promptly take such action as may be necessary to permit the payment of any wage or salary increase (including any insurance or other fringe benefit offered in connection with an employment contract) which (A) was agreed to in an employment contract executed prior to August 15, 1971, (B) was scheduled to take effect prior to November 14, 1971, and (C) was not paid as a result of orders issued under this title, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(3) In addition to the payment of wage and salary increases provided for under paragraphs (1) and (2), beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to require the payment of any wage or salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been, or in the absence of this subsection would be, withheld under the authority of this title, if the President determines that—

(A) such increases were provided for by law or contract prior to August 15, 1971; and

(B) prices have been advanced, productivity increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

Substandard
wages.

"(d) Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

"(e) Whenever the authority of this title is implemented with respect to significant segments of the economy, the President shall require the issuance of regulations or orders providing for the stabilization of interest rates and finance charges, unless he issues a determination, accompanied by a statement of reasons, that such regulations or orders are not necessary to maintain such rates and charges at levels consonant with orderly economic growth.

Limitation.

"(f) The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages—

52 Stat. 1060.
29 USC 201.

"(1) required under the Fair Labor Standards Act of 1938, as amended, or effected as a result of enforcement action under such Act; or

"(2) required in order to comply with wage determinations made by any agency in the executive branch of the Government pursuant to law for work (A) performed under contracts with, or to be performed with financial assistance from, the United States or the District of Columbia, or any agency or instrumentality thereof, or (B) performed by aliens who are immi-

grants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act; or

66 Stat. 163.

"(3) paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity.

8 USC 1101
note.

"(g) For the purposes of this section the term 'wages' and 'salaries' do not include contributions by any employer pursuant to a compensation adjustment for—

"Wages,"
"salaries."

"(1) any pension, profit sharing, or annuity and savings plan which meets the requirements of section 401(a), 404(a)(2), or 403(b) of the Internal Revenue Code of 1954;

68A Stat. 134,
138.

"(2) any group insurance plan; or

72 Stat. 1620,

"(3) any disability and health plan;

26 USC 401,
404, 403.

unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases issued under subsection (b).

"(h) No State or portion thereof shall be exempted from any application of this title with respect to rents solely by virtue of the fact that it regulates rents by State or local law, regulation or policy.

"(i) Rules, regulations, and orders issued under this title shall insofar as practicable be designed to encourage labor-management cooperation for the purpose of achieving increased productivity, and the Executive Director of the National Commission on Productivity shall when appropriate be consulted in the formulation of policies, rules, regulations, orders, and amendments under this title.

"§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part of members appointed to represent different sectors of the economy and the general public. Members of such boards, commissions, and similar entities shall be appointed by the President by and with the advice and consent of the Senate; except that—

"(1) the foregoing requirement with respect to Senate confirmation does not apply to any member of any such board, commission, or similar entity (other than the Chairman of the Pay Board, established by section 7 of Executive Order Numbered 11627 of October 15, 1971, and the Chairman of the Price Commission, established by section 8 of such Executive order) who is serving, pursuant to appointment by the President, on such board, commission, or similar entity on the date of enactment of the Economic Stabilization Act Amendments of 1971, and who continues to serve, pursuant to such appointment, on such board, commission, or similar entity after such date; and

36 F.R. 20142.

Ante, p. 743.

"(2) any person serving in the office of Chairman of such Pay Board, and any person serving in the office of Chairman of such Price Commission, on the date of enactment of the Economic Stabilization Act Amendments of 1971, may continue to serve in such capacity on an interim basis without regard to the foregoing requirement with respect to Senate confirmation until the expiration of sixty days after the date of enactment of the Economic Stabilization Act Amendments of 1971, and the provisions of sections 910-913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate in considering the nomination of any person to either of such offices submitted to the Senate by the President during such sixty-day period, except that references in such provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purpose of this section to refer to such nominations.

80 Stat. 397;
Ante, p. 576.

85 STAT. 747

76 Stat. 1121-
1125.

62 Stat. 791.

5 USC 551, 701,
81 Stat. 54;
80 Stat. 383.

Where such boards, commissions, and similar entities are composed in part of members who serve on less than a full-time basis, legal authority shall be placed in their chairmen who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of any such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity.

"§ 205. Confidentiality of information

"All information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title.

"§ 206. Subpena power

"The head of an agency exercising authority under this title, or his duly authorized agent, shall have authority, for any purpose related to this title, to sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpoena served upon any person under the provisions of this section, the head of the agency authorizing such subpoena, or his delegate, may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title are excluded from the operation of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 553, and 555 (e) of title 5, United States Code.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section.

"(c) To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers, which have or may have a significantly large impact upon the national economy, and such hearings shall be open to the public except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this title.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than \$5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than \$2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any person authorized by the President to exercise authority under this title that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation under this title, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

"§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunction (subject to the limitations in section 211), and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the overcharge upon which the action is based, or

"(2) not less than \$100 or more than \$1,000;

except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: *Provided*, That where the overcharge is not willful within the meaning of section 208(a) of this title, no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"Overcharge."

"§ 211. Judicial review

"(a) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this title, or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this subsection or in subsection (h) of this section affects the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United

85 STAT. 749

28 USC 1441.
Temporary
Emergency
Court of
Appeals.
Establishment.

States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

"(b) (1) There is hereby created a court of the United States to be known as the Temporary Emergency Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subsection (d) (2) of this section, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this title, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this title. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this title. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

Jurisdiction.

"(2) Except as otherwise provided in this section, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from the district courts of the United States in cases and controversies arising under this title or under regulations or orders issued thereunder. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(c) In any action commenced under this title in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

Enjoinment.

"(d) (1) Subject to paragraph (2), no regulation of any agency exercising authority under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

80 Stat. 393.

"(2) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this title to a person who is a party to litigation before it. Appeals from interlocutory decisions by a district court of the United States under this paragraph may be taken in accordance with the provisions of section 1292(b) of title 28, United States Code; except that reference in such section to the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

72 Stat. 1770.

"(e) (1) Except as provided in subsection (d) of this section, no interlocutory or permanent injunction restraining the enforcement,

operation, or execution of this title, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (A) that a regulation of an agency exercising authority under this title is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, or (B) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

80 Stat. 393.

"(2) Any party aggrieved by a declaration of a district court of the United States respecting the validity of any regulation or order issued under this title may, within thirty days after the entry of such declaration, file a notice of appeal therefrom in the Temporary Emergency Court of Appeals. In addition, any party believing himself entitled by reason of such declaration to a permanent injunction restraining the enforcement, operation, or execution of such regulation or order may file, within the same thirty-day period, a motion in the Temporary Emergency Court of Appeals requesting such injunctive relief. Following consideration of such appeal or motion, the Temporary Emergency Court of Appeals shall enter a final judgment affirming, reversing, or modifying the determination of the district court and granting such permanent injunctive relief, if any, as it deems appropriate.

Appeal.

"(f) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this title, or any regulation or order issued thereunder, shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (g) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(g) Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title or of any regulation or order issued under this title. Except as provided in this section, no court, Federal or State, shall have jurisdiction or power to consider the constitutional validity of any provision of this title or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of such regulations or orders, or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

62 Stat. 928.

"(h) The provisions of this section apply to any actions or suits pending in any court, Federal or State, on the date of enactment of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

Effective date.

"§ 212. Personnel

"(a) Any agency or officer of the Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the purposes of this title.

85 STAT. 751

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314) and two at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

80 Stat. 460;

83 Stat. 864.

"(c) Any member of a board, commission, or similar entity established by the President pursuant to authority conferred by this title who serves on less than a full-time basis shall receive compensation from the date of his appointment at a rate equal to the per diem equivalent of the rate prescribed for level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the performance of his duties as such member.

80 Stat. 878;

84 Stat. 1955.

"(d) (1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title.

"(e) The President may require the detail of employees from any executive agency to carry out the purposes of this title.

"(f) The President is authorized to appoint, without regard to the civil service laws, such advisory committees as he deems appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

83 Stat. 190.

"(g) (1) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break of service of one or more work days, to any position for carrying out functions under this title are entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

80 Stat. 571.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c) of title 5, United States Code, shall continue to be covered thereunder while carrying out functions under this title.

"§ 213. Experts and consultants

"Experts and consultants may be employed, as authorized by section 3109 of title 5, United States Code, for the performance of functions under this title, and individuals so employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5, United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or the holding of an office or position bringing such individual within the provisions of section 3323(a) of title 5, United States Code, section 872 of the Foreign Service Act of 1946, or any other law limiting the reemployment of retired officers or employees.

74 Stat. 846;

75 Stat. 464.

22 USC 1112,

"§ 214. Small business

"(a) It is the sense of the Congress that small business enterprises should be encouraged to make the greatest possible contribution toward achieving the objectives of this title.

"(b) In order to carry out the policy stated in subsection (a)—

"(1) the Small Business Administration shall to the maximum extent possible provide small business enterprises with full information concerning (A) the provisions of this title relating or of benefit to such enterprises, and (B) the activities of the various departments and agencies under this title;

"(2) in administering this title, such exemptions shall be provided for small business enterprises as may be feasible without impeding the accomplishment of the purposes of this title; and

"(3) in administering this title, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

"§ 215. Mass transportation systems

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities, the fares of which are not otherwise regulated, shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 216. Reports

"(a) In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken under this title during the preceding quarter and giving his assessment of the progress attained in achieving the purposes of this title.

60 Stat. 24;
70 Stat. 290.

"(b) In carrying out his authority under this title, the President shall study and evaluate the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. The results of such study shall be incorporated in the reports referred to in subsection (a).

"§ 217. Funding

"(a) There are authorized to be appropriated to the President, to remain available until expended, such sums as may be necessary to carry out the provisions of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available for such purposes by gift, devise, bequest, grant, or otherwise.

"§ 218. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1973.

"§ 219. Ratification

"The assignment of personnel and expenditure of funds pursuant to the authority conferred on the President by this title prior to the date of enactment of the Economic Stabilization Act Amendments of 1971 are hereby approved, ratified, and confirmed.

Ante, p. 743.

"§ 220. Severability

"If any provision of this title or the application of such provision to any person or circumstances is held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

FEDERAL EMPLOYEE COMPENSATION

84 Stat. 1948.
5 USC 5305
note...

SEC. 3. Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91-656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91-656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799), as amended, and that may be in effect on December 31, 1971; and

(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey.

NATIONAL PRODUCTIVITY POLICY

SEC. 4. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices, and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

(b) It shall be the objective of the President's National Commission on Productivity (hereinafter referred to as the "Commission")—

(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased² productivity through free competitive enterprise

Ante, p. 38.

Effective
date.

toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

60 Stat. 23.
15 USC 1021
note.

(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

(4) to promote sound wage and price policies in the public interest, and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid—

(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

(D) in planning for provision of adequate transportation for employees;

(E) in the exploration of means to expand exports of the products of United States industry;

(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

(G) in the dissemination of technical information and other material to publicize its work and objectives;

(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (G) of this subsection, as they are applied in foreign countries; and

(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

Report to
President and
Congress.

(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

85 STAT. 754
85 STAT. 755

(d) (1) In exercising its duties and function under this Act—

(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in subsections (b) through (d) of this section.

(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized (A) to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this section, and (B) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(f) There is hereby authorized to be appropriated the sum of \$10,000,000 to carry out the purposes of this section during the period ending April 30, 1973.

Approved December 22, 1971.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-714 accompanying H.R. 11309 (Comm. on Banking and Currency) and Nos. 92-745 and 92-753 (Comm. of Conference).

SENATE REPORT No. 92-507 (Comm. on Banking, Housing and Urban Affairs). CONGRESSIONAL RECORD, Vol. 117 (1971):

Nov. 29, 30, Dec. 1, considered and passed Senate.

Dec. 10, considered and passed House, amended, in lieu of H.R. 11309.

Dec. 13, Senate agreed to conference report No. 92-745.

Dec. 14, House sustained point of order against conference report No. 92-745 and requested further conference; Senate and

House agreed to conference report No. 92-753.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 7, No. 52:

Dec. 22, Presidential statement.

Executive
Director.

80 Stat. 416.
Appropriation.

Senator HART. Without objection; yes.

Mr. CHUMBRIS. And, Mr. Chairman, I have two references taken from official Federal reporters, one dealing with wage-price freeze validity in the *California Teachers case* vs. *Newport Unified District*, U.S. District Court of California, which held that the authority of the freeze was appropriate, and a later case, *Meatcutters vs. Connally*, U.S. District Court No. 1833.

Senator Gore. I believe you were counsel in that case, and your name is on top of the list of the attorneys listed in the digest. And I have only the headnotes on that case and I think at the appropriate time we can put the entire decision of the judge in both of these cases.

Also—

Senator HART. The record will be held open for that.

(Information follows. Testimony resumes on p. 83.)

[From the Washington Sunday Star, Jan. 16, 1972]

SECRECY RULES ON PRICE UNIT

(By Dana Bullen)

Although the motto cited above hangs on the wall at the Price Commission's offices, most people have little idea of how or why individual price increase rulings turn out as they do.

A top Price Commission official, consumer watchdog Ralph Nader and a leading liberal member of the Senate all agree there is no way the public can tell if individual decisions are right.

And an effort by a reporter to use a case picked at random to see what can be learned about the reasons for a price increase ruling led quickly to one conclusion: Not much.

"FRANKLY NO"

"With the information that's available, frankly no, you cannot judge in a particular case whether the commission acted rightly or wrongly," the commission's general counsel, David Slawson, said.

The case chosen at random was decided Dec. 16, according to a Price Commission announcement. The notice informed the public only that National Steel Corp. had asked for and received—an 8 percent price increase on its sheet steel products that would mean a 4.96 percent revenue increase for the firm.

The 8 percent price increase was more than three times the 2.5 percent target figure the commission is trying to enforce for price increases generally.

Both Nader and Sen. William Proxmire, D-Wis., have criticized procedures that prevent the public from knowing more about the reasoning in such cases.

Nader, in a letter Dec. 10 to Commission Chairman C. Jackson Grayson Jr., said citizens who bear the cost of price increases are denied a chance to participate in its decisions.

NEW POLICY URGED

"At the very least, the commission should immediately initiate a program of presenting reasons in its announcements of approvals or denials of requests for price increases," he said.

Proxmire, in a telephone interview, agreed on the need for more information.

"As time goes on, the public will become more and more aware that there's no firm way they can tell whether price increases are legal or not," he said.

In the National Steel case, an inquiry to Willis L. Helmantoler, the Price Commission's chief spokesman, for the company's and the staff's reasoning and for the figures used brought this answer:

"I don't think you'll ever get it. There are laws on the books. Nobody is going to get outside of this building with that information unless a court says so. There are those who say we are giving out too much now."

The reporter was referred to the general counsel's office. Long interviews there produced no significant further information beyond the assertion that increased labor costs had been the major factor.

"It was a catch-up," said Slawson. "They suffered wage increases since their last round of price increases."

How much had workers' wages gone up? "That's confidential." What was the impact of this on product unit costs? "Confidential." What about increased productivity? "That's confidential." And profit margins? "Confidential."

But Slawson acknowledged that this information would provide "the guts of the justification."

He outlined the reasons the commission believes it cannot give out such information, and these grouped themselves into two major categories: practical and legal.

"BREACH OF FAITH"

On the practical side, Slawson said, "a breach of faith with industry" would dry up the flow of information the commission needs to decide cases.

"The free flow of information we now obtain from most industry is essential to the effective working of our program," he said.

The legal basis for withholding information in such cases was said by Slawson to rest on three statutes, one of them a longstanding federal criminal law protecting "confidential" data.

The section, 18 U.S. Code 1905, makes it a federal offense for an employee of the government to divulge information coming to him about a firm's trade secrets, operations, profits, losses and expenditures.

When Congress last fall extended President Nixon's powers to fight inflation, it adopted language stating that information submitted under these programs would fall within the existing criminal provisions.

Proxmire and other Senate liberals fought to substitute wording that would only have classed "a trade secret or process" as confidential. They lost, 53 to 35.

INFORMATION ACT

The third statute listed by Slawson as permitting the Price Commission to withhold facts was, ironically, the so-called Freedom of Information Act.

This statute, after listing information government agencies must make available, goes on to list "exemptions" to this requirement. One is "trade secrets and commercial or financial information."

"We would not violate this act if we chose to disclose," said Slawson. "But nobody can make us."

The facts the public do not get go mostly to staff members of the Price Commission who decide virtually all the cases on which it acts.

While a few cases may reach Grayson or the commission itself, Slawson said, "there is no routine procedure for sending them on to the commission."

The cases on which the staff acts involve the nation's largest companies, because only firms with more than \$100 million in annual revenues must secure approval before raising prices.

National Steel, for example, is the nation's fourth largest steel company, with gross revenues that totaled \$1.2 billion in 1970. Much of its steel goes into cars and appliances, where consumers feel price increases quickly.

A spokesman for the company, reached at its Pittsburgh office, declined to provide facts about the firm's request to the Price Commission or the reasoning used to justify the price increase.

"It is confidential material. It is competitive material. The Price Commission put it on a confidential basis," said Dick Larkin, director of public relations.

PUBLICITY FAVORED

In general terms, Price Commission officials claim they favor making information public. Helmantoler said, for instance, that his policy was "to make available as much as possible."

The Cost of Living Council, the umbrella organization of the anti-inflation program, last week announced it will "require" disclosures of information to show its programs are working fairly.

It said that names of "violators" of stabilization rules will be disclosed "in a number of circumstances" and that investigation results now, "may" be reported to complainants.

But inquiries to the CLC about what "circumstances" would mean disclosure or what constitutes a "violation" drew an answer that this would be spelled out later in another release.

At the Price Commission, Slawson said no guidelines adopted for release of information would include the details in a firm price increase justification.

Nader, in his letter to Grayson, called the information now available "a meager declaration that cannot provide a basis for a meaningful public response."

In his response to this, Grayson on Dec. 29 agreed that the arguments the commission hears in many cases "are representative only of the companies concerned."

But, he said, disclosure of information that would permit meaningful public participation would "substantially impair the cooperative attitude" industry now affords.

The choice, as Slawson sees it, is between unrestrained price increases and something less than that. The public benefits, he said, in whatever degree inflationary increases do not happen.

"What we're offering the public is a protection against paying higher prices that they did not formerly have," Slawson said. Against this, he said, the question of how far the Price Commission asserted itself is "of second-order constitutional importance."

PROFESSIONAL CONTROVERSY

Most of the key policy controversies among economists reflect different philosophies about the government's role in the society and the economy, and about the relative priority attached to various objectives that we all value to some degree. There is no logical necessity for economists who place a particularly heavy weight on the goal of price stability also to favor a minimum size and scope of the federal budget, or to emphasize the importance of balance-of-payments equilibrium. Yet empirically this association exists. If you knew the views of an unidentified economist on half a dozen controversial issues, you could make a good estimate of his positions on six other issues.

In the areas of fiscal and monetary policy, economists sometimes disagree about the general ability of government to promote better economic performance by discretionary policy decisions. Those who advocate that monetary policy be guided by specific rules have a consistent ideological position reflecting their distrust of judgment and decision making in the bureaucratic process. Apart from this particular debate, the key to varying fiscal-monetary prescriptions lies in differing assessments of the relative social importance of price stability and of high employment. To be sure, the experts differ with one another at times on their forecasts of private demand and on their choice of stabilization instruments. Such differences in technical judgments can lead to occasional disagreements among people with the same philosophical orientation. Thus in some instances Walter Heller and Paul Samuelson disagree on the right prescription; and at times Arthur Burns and Henry Wallich disagree. And, on many occasions, all four agree.

But the ideological differences dominate the disagreements. There are "high-pressure" and "low-pressure" economists, to use Henry Wallich's apt term.¹⁴ History probably does not record a day when Paul Samuelson was advocating restraint while Henry Wallich urged stimulus. When there are risks to be taken, Samuelson will accept a somewhat greater danger of inflation and Wallich will take somewhat more risk of unemployment. Price stability and high levels of employment are prized by both men, but not with the same relative intensity.

James Tobin has stated the high-pressure creed eloquently:

. . . The whole purpose of the economy is production of goods or services for consumption now or in the future. I think the burden of proof should always be on those who would produce less rather than more, on those who would leave idle men or machines or land that could be used. It is amazing how many reasons can be found to justify such waste: fears of inflation, balance-of-payments deficits, unbalanced budgets, excessive national debt, loss of confidence in the dollar. . . . Perhaps price stability, fixed exchange rates, balanced budgets, and the like can be justified as means to achieving and sustaining high employment, production, and consumption. Too often the means are accorded precedence over the end. . . .¹⁵

In the microeconomic area, sharp controversies arise among economists regarding the capability of political action to improve imperfect results of the market's decisions. The areas of consensus described above reflect a general

¹⁴ Henry C. Wallich, "Conservative Economic Policy," *Yale Review*, Vol. 46 (Autumn 1956), p. 68.

¹⁵ James Tobin, *National Economic Policy: Essays* (Yale University Press, 1966), pp. vii-viii.

commitment of economists to the impersonal and efficient solutions of the market mechanism in cases where competition prevails, where buyers and sellers are well informed, and where there are no externalities—that is, where benefits and costs are limited to consumers and producers of a given product. In such a world, the scope of microeconomic policy would be limited to modifying income distribution. But these assumptions are not a good description of the real world, and not a perfect description of any specific situation.

Any economist who wants the government to “do something about it” whenever the market falls short of perfection will prescribe an unlimited scope for government intervention. As George Stigler put it in a widely circulated comment, this prescription is like the verdict of the judge in a singing contest who was ready to award the prize to the second singer merely on the basis of having heard the first. The real question is whether any modification that could be introduced by government action would improve the situation.

On the other hand, conditions in the market sometimes fail to bear even a family resemblance to those of the model. Some situations virtually cry out for public intervention. For example, it is cold comfort that, without food and drug regulation, any customer who is fatally poisoned by a medication will never buy that product again. Political solutions can be workable and can improve matters on many occasions when the market solution is strongly tainted. And political action can bring the income distribution generated by the market closer into line with our egalitarian principles.

MR. CIUMBRIS. Mr. Arthur Okun, who was a former Council of Economic Advisers chairman under President Johnson, wrote a book entitled “The Political Economy of Prosperity.” He wrote it in April 1969, and I have taken, beginning on page 19, I have taken several pages in which he discusses, and I will start the first sentence because it leads to it:

Most of the key policy controversies among economists reflect different philosophies about the Government's roles in the society and the economy and about the relative priority attached to the various objectives that we all value to some degree.

And he goes on and explains why some people believe in the monetary theory, some believe in the monetary and fiscal theory, and the divisions and agreements. He points out sometimes Heller will agree with Wallick, and sometimes he will disagree. One is more liberal, the other more conservative. And I will point out where liberals will disagree and conservatives will disagree.

I think it will be a good little insight into some of the different views that we will get during the course of these hearings. So that it may be placed at the tail end.

Senator HART. It will be received. Additionally, without objection an article by Dana Bullen of the Star of Sunday last.

Senator HART. Gentlemen, thank you again very, very much.

We are adjourned, to resume at 9:30 tomorrow.

(Whereupon, at 1:40 p.m., the subcommittee adjourned until 9:30 a.m., Wednesday, January 19, 1972.)

CONTROLS OR COMPETITION

WEDNESDAY, JANUARY 19, 1972

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:45 a.m., in room 318, Old Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senators Hart, and Hruska.

Also present: Charles E. Bangert, general counsel; David D. Martin, chief economist, Dr. Walter S. Measday, economist; Arthur Anderson, economist; Peter N. Chumbris, chief counsel for the minority; Kirkley S. Coulter, economist for the minority; Patricia Bario, editorial director; and Janice Williams, clerk.

Senator HART. The committee will be in order.

This morning we welcome three distinguished economists. I think they are familiar with the format that we are attempting here.

We have received from each a prepared statement. This will be printed in the record in full as though given in full. We would hope that each participant would perhaps within the reach of 10 to 15 minutes present that prepared statement orally. Following that, I would hope that there would be some exchange and reaction.

We have asked you to help us understand what steps might be possible to avoid the necessity for direct wage and price controls. Anything you want to contribute to that we would welcome.

First, we will hear from Dr. Murray L. Weidenbaum. This is not the first time this committee has had the opportunity of hearing him. He served as Assistant Secretary of the Treasury for Economic Policy and he is currently the Mallinckrodt distinguished university professor, Washington University, St. Louis.

STATEMENT OF DR. MURRAY L. WEIDENBAUM, MALLINCKRODT DISTINGUISHED UNIVERSITY PROFESSOR, WASHINGTON UNI- VERSITY, ST. LOUIS, MO.

Dr. WEIDENBAUM. Thank you, Mr. Chairman. It is a real pleasure to be invited once again to testify before this distinguished committee.

About a year ago it was fashionable to debate the relative effectiveness of monetary and fiscal policy. The answer I usually would give to that was to rephrase the question to read: Which is weaker, monetary or fiscal policy? My answer was both.

By that I meant, and I still mean, that just following the classical prescription of tightening monetary and fiscal policy to bring down

inflation was not working as well as we should have expected. Such economic policies were succeeding in bringing something down, but all too frequently that something was employment that was being brought down rather than inflation.

Moreover, when you reverse the policies, comparable problems arise. All too frequently, monetary and/or fiscal ease was resulting in more inflation rather than in bringing down the unemployment rate. This is quite a policy box for a country to be in. Moreover, to talk in terms of accepting inflation in order to obtain high employment I believe is misleading. A continuing high rate of inflation inhibits the return to full employment. I say that because it inevitably restrains our willingness to maintain expansionary policies. That is a key point that is often overlooked: Rather than a trade-off in a modern economy, one of the prices that our society tends to pay for inflation is a higher level of unemployment than would otherwise be the case.

What should be done? Basically, we need to deal with those concentrations of private economic power which have become insulated from the influences of aggregate monetary and fiscal policy. In the short run, I believe that we are on the right track. That is, we need to use some form of incomes policy to get those sectors of the economy where substantial concentrations of private market power exist to abstain from using such power to its fullest. Clearly, this is what the Nixon administration's compulsory wage and price restraint effort is all about. Hence, I think it is essential to support in the short run the Nixon administration's wage and price restraint effort.

To the extent that the combined efforts of phase I and phase II do succeed by and large in eliminating the inflationary psychology in the economy, the bulk of the problem will have been dealt with, but frankly, only in the short run. Certainly, we all look forward to an early elimination of our compulsion over individual wage and price decisions.

I almost said that we all look forward to an early return to the free market. But let us not delude ourselves. In the overall ours is essentially a market system, but many parts of the American economy do not correspond to the competitive market model that we like to talk about so much. In so many cases, labor groups, business groups, and professional groups control or at least strongly influence the portion of the economic pie that they receive. They do that because of their power over wage, price, and productivity decisions. I am taking pains not to point the finger just at labor, or just at business, or just at the services. In fact, I would not limit the analysis to the private sector.

So much of the departure from a freely functioning competitive economy—the kind of economy in which monetary and fiscal measures would work far more effectively than they have been—results from Government itself. Far too often, Government laws and regulations have given rise to the problem that faces us. Far too often, legislation designed to help one part of the society has harmed others and often without achieving the benefits intended.

I would like to cite a striking case in point. But this is not unusual. I contend it is a typical case in point. When I lived in the Pacific

Northwest about a decade ago, I was struck by the self-defeating nature of a specific piece of legislation. Specifically, the problem at the time was the Federal legislation requiring U.S. firms to use American vessels in coastwise trade. That seemed like a simple and straightforward way of helping the American merchant marine.

How did it work in practice? Because of the shipping restriction, Pacific Northwest lumber producers were having great difficulty in competing against the Canadian industry in our own markets. The Canadian lumber industry, not being limited in choice of vessels, could often deliver the product to the southern California market more cheaply than our own industry. Hence, what ostensibly was an effort to help one industry (shipping) merely turned out to hurt another (lumber), with the benefits all going to foreign companies.

I believe that this is an appropriate time to examine afresh all of the Federal legislation and regulations which interfere with competition, which unduly raise prices, or which otherwise give our economy an inflationary bias. The accumulation over the years has been so substantial—production and import quotas, excess stockpiles of minerals and metals, mineral and agricultural price supports, hidden subsidies, barriers to employment, “prevailing” wage determinations, restrictions on shipping, and many others.

I would anticipate that this committee has a full job on its hands if it decides to dig into this area in detail. I would not underestimate the obstacles. That the cost to the Nation of each of these special provisions exceeds the benefits to the Nation may not always be the politically relevant criterion I am afraid; the benefits to some particular group are likely to far outweigh the costs to them and thus a powerful “clientele” may have been developed.

We need to get across the crucial point that when we add up the costs of all of these various special arrangements, they outweigh the benefits even to the group involved—that is, with so many segments of the population attempting to insulate themselves from competition, the total effort is self-defeating. The “dead weight” of these interferences with economic progress and productivity reduces the “economic pie” and the portions available to all of the participants.

I would like to leave the committee one final thought. Personally, I expect that the present wage and price control apparatus, having achieved its objective, will be dismantled during the coming year or so. However, unless the underlying structural problems that I have been discussing are dealt with, I would anticipate later in the decade that one or more bursts of inflationary pressures will occur and subsequently we will have additional experiments in incomes, that is, wage and price controls, policy.

Thank you.

Senator HART. Thank you, Doctor.

Next, we welcome Dr. Allan E. Meltzer. Dr. Meltzer, who is currently professor at Carnegie-Mellon at Pittsburgh, has been a visiting professor at the University of Chicago. Some of us on the committee have read some of his papers on monetary policy.

We welcome you this morning.

STATEMENT OF DR. ALLAN MELTZER, GRADUATE SCHOOL OF
INDUSTRIAL REGULATION, CARNEGIE-MELLON UNIVERSITY,
PITTSBURGH, PA.

Dr. MELTZER. Thank you very much, Senator. It is a pleasure to be here with you to discuss this very important topic, one on which there is much misunderstanding.

Any system of price and wage controls reduces freedom of contract and freedom of choice. Decisions to restrict these or other personal freedoms are justified in a totalitarian society by reference to some alleged, often vague and illusory, social benefit. In a democratic society, we require or expect some demonstration that the social benefits, the benefits to society, exceed the costs of government policies, so that individuals who suffer losses can be compensated without eliminating the entire social gain.

Let me accept this principle and ask how it applies to the present system of wage and price controls. The costs are very clear and positive; we have reduced freedom and efficiency. In exchange, we have received little more than unsubstantiated hopes, unverified conjectures and rhetoric about a new era and a "new ball game." Can we expect benefits in the future that will more than match past and future costs? I know no reason to expect any such benefit or, indeed, any net benefit at all. We have treated freedom and efficiency as worthless by sacrificing both in exchange for nothing more tangible than promises based on the hopes and beliefs of those who have been urging us to adopt controls for the past several years.

What are the alleged benefits? I find three main arguments for controls as a solution to our present set of problems. One argues that controls reduce current inflation by reducing anticipated inflation. A second sees price and wage controls as a type of incomes policy. Although many of the people who make this argument recognize that incomes policies have not worked here or abroad, they claim to be hopeful that current efforts will meet with success because we start from a position in which output is below potential. A third argument views wage and price controls as a means of reducing the monopoly power of large corporations and large unions. I believe this argument is of particular interest to the members of the committee since it proposes price and wage controls as a substitute for more vigorous enforcement of existing antitrust laws or as an alternative to new laws. I will discuss each of the arguments very briefly.

The first argument is reversed. The public becomes convinced that the rate of inflation is slowing when they find themselves able to buy the same baskets of goods and services with a smaller increase in expenditure. Price indexes are useful devices for monitoring broad changes in the economy. To expect the public to regard changes in such indexes as more reliable measures of the rate of inflation than the facts they or their wives encounter in the marketplace is a poor principle on which to build a policy.

Perhaps the Government can convince people that prices are falling by controlling some components of an index. Our knowledge of short-term changes in the public's anticipations and in price levels is not so firm that we can dismiss the argument completely. Pushing beyond that weak general statement, however, we can say much more about

the way in which anticipations play a role in the current inflation and in the attempt to control inflation.

Broadbased measures of prices rose at an annual rate of 4 percent in the second quarter of 1971 and about 2.8 percent in the third quarter. Almost every forecast I have seen for 1972 puts the anticipated rate of inflation between three and 3½ percent. If these forecasts are credible, the rate of inflation is expected to rise next year. At least, it is not expected to fall. Apparently, the forecasters have either not heard or have not accepted the argument that price controls reduce inflation by reducing anticipations of inflation.

A possible remedy might be a law controlling the anticipated rate of inflation that forecasters are permitted to announce.

It is now generally agreed that controls or incomes policies cannot reduce inflation when total demand exceeds our capacity to produce. At most, controls suppress inflation under these conditions and then only temporarily. Proponents of controls dismiss this argument as irrelevant now. They point to the number of unemployed and to the low operating rate in manufacturing and conjecture that output can increase without raising prices or wages.

The broad record of experience offers very little support for their conjecture. During the 1920's, unemployment rates were low, and resources were, for the most part, employed. Output increased by approximately 50 percent, and prices changed very little. During the recovery from the worst depression of modern times, 1933-37, prices rose 10 to 12 percent while large parts of the labor force remained idle. Prices rose very little both when unemployment rates were relatively high, from 1961 to 1964, and when unemployment rates were generally low, from 1952 to 1956.

Government monetary and fiscal policies are considerably more important than the current unemployment rate or the current rate of capacity utilization for determining the rate of inflation. However, it is a mistake to believe that inflation can be controlled by controlling a few prices and wages. Inflation means that a broadbased price index rises. Preventing a few components of that index, a few prices and wages, from rising distorts the numbers we use to measure the rate of inflation and misleads some people. I know of no reason to believe that changes of this kind have any significant effect on the actual rate of inflation, the rate of price change experienced by consumers and businessmen in the marketplace.

This brings me to the last of my issues, the monopoly issue. Probably the most widely accepted myth about inflation is that inflation is produced by the independent actions of some special group. In recent inflations, business and labor monopolies have been cast as the villains. At earlier times, speculators were often blamed for inflation. And historically there have been any number of different groups who have been credited with being the particular engine of inflation most responsible for the current problem.

There is no basis for the belief that monopolists are responsible for the current inflation or for earlier inflations. Nor is there evidence that large firms raise prices more than small. The rate of price increase in the heavy industries, those that are usually accused of being monopolistic or oligopolistic—steel, coal, aluminum, autos, glass, or chemicals—in the year before the price freeze was lower than the rate

of increase in many other sectors of the economy. Of the 25 consumer prices that rose most in the year ending June 1971, 10 are food prices, mainly fresh foods, and, therefore, not controlled under the present system of regulations. Seven are prices already controlled and regulated by governments at various levels. The latter include air fares, taxi fares, freight rates, postage stamps and auto insurance rates. I want to make clear that the items on that list are not always federally controlled prices, but they are prices controlled at various levels of government. None of these goods or services are produced or sold by the type of monopoly usually pictured as a price leader.

There is an obvious reason why monopoly power and inflation are commonly associated in the public mind. The reason is that those who make this charge fail to distinguish between high prices and rising prices. Monopoly firms raise prices above the competitive level by restricting output. Unions that are able to restrict entry into a space or occupation raise wages for the particular craft or occupation. Government restrictions that reduce entry and competition raise product prices or the wages of employees in the occupations to which entry is limited.

An increase in monopoly power produces a one-time increase in the prices of those goods and services that are newly monopolized. If the Government's monetary and fiscal policies are noninflationary, a properly constructed price index will not show any change in the rate of inflation. In short, antitrust policy is not a substitute for controls, and controls are not a substitute for antitrust policy.

I do not want to leave you with the idea that you should be unconcerned about prices. There is much that you can do that falls within the general jurisdiction of this committee, I believe. I hope you will act to lower the prices the consumer pays for the goods or services he receives. High on my list of proposed activities would be an investigation of the costs to consumers of restrictions enforced by governments at all levels. Quotas on oil imports, restrictions on the importation of meat, vegetables, and other commodities, restrictions on the number of banks and their branches, laws regulating the wages received on contract construction, restrictions on the number of licensed taxicabs by most municipalities, restrictions on price cutting by airlines, tariffs on imports, laws restricting entry into crafts and professions—these are but a few of the restrictions maintained and enforced by government that prevent competition and raise the prices paid by consumers or reduce the level of services for the prices they pay.

Removing these restrictions would lower the prices paid by consumers for the services they receive. Removing the restrictions would have no noticeable effect on the rate of inflation.

Senator HART. Thank you, Dr. Meltzer.

Last, Dr. Charles L. Schultze, who has appeared often before committees of the Congress. In the Johnson administration he served as the director of the Bureau of the Budget, and was on the staff of the Council of Economic Advisers during the Eisenhower administration. He is now in the Brookings Institution here and a professor at the University of Maryland.

Dr. Schultze.

**STATEMENT OF DR. CHARLES SCHULTZE, BROOKINGS INSTITUTION
AND PROFESSOR OF ECONOMICS, UNIVERSITY OF MARYLAND**

DR. SCHULTZE. Thank you, Mr. Chairman and Senator Hruska.

In the announcement of these hearings which you sent me, the subject of today's session was entitled, "Are there steps that make sense economically which would erase the need for wage and price controls?"

My short, and I hope, not unwelcome answer to this question is, "No." I am convinced that some sort of intervention by the Federal Government into the setting of wages and prices will for a long time to come be a necessary condition for simultaneously achieving full employment and reasonable price stability in our economy.

On the other hand, if the question were rephrased to ask whether there are economic measures which, while not erasing the need for controls, would reduce their rigor and severity and give them a better chance of success, then my answer would be, "Yes." I think there are economically sound measures which would moderate, even if they could not eliminate, the magnitude of the inflationary problem under high employment conditions.

In order to be more specific let me list and briefly discuss the major sets of economic conditions and industrial practices which either generate or perpetuate inflationary conditions.

Inflation can be generated and perpetuated by an excess demand for goods and services, a demand for goods and services larger than the economic capacity of the Nation to furnish them. When market demands are so high that the unemployment rate is pushed to very low levels; when the supply, particularly of experienced full-time workers in large sectors of the economy, becomes very tight so that employers are forced to bid up wages rapidly to get workers; when output presses hard on industrial capacity, inflation is bound to occur. Wages are bid up more rapidly than productivity gains, raw material prices soar, and on top of this, profit margins begin to widen, especially in competitive industries. But, paradoxically, inflation of this variety is not our major problem.

If inflation only occurred when, for one reason or another, the sum of consumer, business, and Government expenditures was excessive, the standard tools of monetary and fiscal policy could handle the situation by reducing this excessive overall level of demand. Mistakes might be made, and surely would be made, but there would be no reason for wage or price controls or for structural reforms introduced on grounds of inflation control alone. The only need for better monetary and fiscal policies.

But the really intractable problem in our modern economy is that inflation occurs simultaneously with the existence of underutilized resources. In the current situation, an inflation which did indeed start with the overheated economy of the late 1960's, has persisted for more than 2 years after the overheating disappeared, and persisted through a period of substantial unemployment. Earlier, in the mid-1950's we had significant inflation which began in the absence of economic overheating and continued for about 2 years, or slightly more.

In short, if inflation occurred only when the unemployment rate had been pushed very low, and if it promptly disappeared once unemployment had risen to the $3\frac{1}{2}$ to 4 percent range, the problem we

are discussing today would be insignificant. It is the fact that inflation persists, and indeed sometimes begins, when unemployment is at or above 4 percent that poses real dilemmas for public policy.

There are, I think, five elements in the Nation's economic structure and habits which lead to the problem of inflation along with high unemployment:

First, there is the fact that in a large number of industries characterized by a high degree of economic concentration, prices tend to be rigid downward—they often do not fall when economic circumstances in a competitive environment would dictate that they should fall. This leads to two inflationary consequences:

(1) Even under conditions of healthy and not excessive prosperity and economic growth, not all industries will experience the same rate of market expansion. Some markets will be expanding sharply, some moderately, and some will be falling. Costs and prices, we know, are likely to rise in industries whose markets are sharply advancing. If prices on the average are to remain stable, and that is what we mean by having no inflation, if prices on the average would remain stable, these price increases must be balanced by price cuts in industries whose markets are growing subnormally or are declining. This is what would happen in a competitive environment. But if prices in large concentrated industries are sticky, if they resist falling in periods of weak markets, then the price averages cannot fail to rise. In short, since some prices are always rising in a healthy economy, others must fall to preserve overall price stability. Paradoxically, therefore, unless some prices fall, the overall price index will assuredly rise, even when the economy as a whole is not overheated.

(2) Productivity expands at widely differing rates among different industries. Bureau of Labor Statistics studies of productivity gains among individual industries confirm this fact. But the rise in wage rates among the different industries is much more uniform than the rise in productivity. As a consequence, if wages generally are to rise at a noninflationary rate—more or less in line with national productivity gains—then the unit labor costs of industries with greater than average productivity gains will fall. The above average productivity gains in these industries will be larger than the advance in wages. As a consequence their prices should be reduced. If, however, prices are sticky downward in concentrated industries with higher than average productivity gains, then profit margins will widen. In turn, it is most unlikely that they will be allowed to go on unchallenged. Management will not let the margins rise too far above normal for fear of inviting unwanted new competition into the industry. Unions will seek to take the abnormal gains away and very often will succeed. Their success will be emulated by unions in other industries which do not have above-average productivity gains. And in turn, this will raise costs and prices in those other industries.

In summary, the failure of prices in concentrated industries to respond to downward economic pressures as they should can generate an inflationary bias in the economy; in part because some price cuts are always needed to balance the inevitable price increases, and in part because the failure to cut prices in response to large productivity gains invites excessive wage advances which tend to be emulated in other sectors of the economy.

The nature of wage bargaining is a second major factor producing inflationary bias. The so-called wage-wage spiral tends to perpetuate inflation once started. Union contracts typically cover periods of more than a year—3-year contracts have become a common practice. A long-term contract signed during a period of economic overheating, say in 1968 or 1969, will usually contain a large wage increase, simply reflecting the inflationary conditions and tight labor market of the period. Subsequently, even when inflationary pressures subside and even if unemployment is rising, other unions signing new contracts will feel a necessity to win wage increases for their numbers equal to the wage won earlier by the first union. Settlements in such large industries as autos, steel, aluminum, aerospace, and can manufacturing influence each other. One large construction settlement, for a particular craft or in a particular locality, acts as a magnet for other crafts and other localities. Such mechanisms as the Davis-Bacon Act and the union contracts for public employees in many cities help spread these construction wage increases widely.

If inflation, once started, is ever to be brought under control the sheer arithmetic of the situation requires that contracts signed after an inflationary boom is over must contain lower wage advances than contracts signed earlier. But the wage-wage spiral and follow-the-leader union settlements substantially delay this period of adjustment and help perpetuate inflation long after labor markets have loosened up and excess capacity appears.

A third contributor to the current problem of inflation lies in the changing nature of the labor market; 15 years ago, when the overall unemployment rate was about 4 percent, about 30 percent of the unemployed were teenagers and young adults. In 1969, when the overall unemployment rate also averaged about 4 percent, half of the unemployed, 50 percent of them, were teenagers and young adults, conversely, and again by the sheer arithmetic of it. Therefore, a smaller proportion of the unemployed are now skilled experienced adults than was true 15 years ago. To reach an average unemployment rate of 4 percent today would mean a much lower rate of unemployment among the core of the experienced labor force than was the case in earlier years. And it is the tightness of the labor market among such experienced adult workers which probably has the most significant impact on key wage bargains.

In short, 4 percent unemployment probably means tighter labor markets and larger wage increases than it did 10 or 15 years ago. Let me be very clear about it. This is not to say that we should abandon our attempts to reduce unemployment to 4 percent or less. But we do need to face the fact that at this overall unemployment level, 4-percent labor markets may be tighter and wage increases larger than they once were, and that specific manpower training and public employment programs may be needed to reduce the size of the inflationary problems which accompanies this fact.

A fourth set of factors which operates to produce inflationary bias in our economy relates to the price-fixing policies of the Federal Government itself. Transportation rate regulation which discourages rate reductions, expensive farm price supports, import quotas (both legal and voluntary), subsidies to an inefficient merchant marine, Davis-Bacon wage provisions in Government contracts, and many other simi-

lar cases, all operate in a generally inflationary direction, by reducing competition and putting relatively high floors under prices that contribute to the downward stickiness. Both Professor Weidenbaum and Professor Maltzer have covered this set of problems in his testimony. I need not repeat, but do wish to underscore, the importance of the point they make.

The fifth element of inflationary bias lies, I believe, in the case with which highly concentrated industries pass on wage and other cost increases. Many observers have noted that these industries tend to follow target-rate-return pricing. During periods of economic overheating, they may raise prices by somewhat less than would be characteristic of competitive industries. But once monetary and fiscal policies succeed in throttling down the overheating in the economy, there is a tendency for inflationary price rises to be perpetuated by target-rates-of-return pricing. Despite weakening markets, firms with substantial market power continue to pass along cost increases fully. They do not absorb them very much or as much as they should. Their resistance to wage demands based on market conditions which no longer exist is weakened, because of their propensity to raise prices to cover the higher costs. Moreover, as sales level off while additional capacity continues to be installed, these industries sometimes attempt to recover their target return at a lower rate of capacity utilization. This occurred quite extensively during the 1956-57 inflation, 15 years ago. It is another factor which tends to perpetuate an inflation well past the period of economic overheating, and produce the paradox of general price increases during periods of less and sometimes substantially less than full employment.

All of these five features of our economic system interact with and reinforce each other. Follow-the-leader wage settlements help spread to other industries the inflationary wage gains which arise when high productivity growth industries refuse to cut prices. The target-rate-of-return pricing helps perpetuate price increases long past the end of an economic boom and feeds back into wage increases through its effect on the cost of living. The total impact of these structural characteristics is greater than the sum of the individual parts.

What can antitrust policy do about these problems? I do not pretend to be an expert in antitrust policies and can, therefore, only offer some highly tentative suggestions which fellow from an analysis of the nature of inflation.

Let me first get out of the way what I believe is a spurious issue. In general, I do not believe that there is much evidence, if any, that concentrated industries generate inflation by arbitrary increases in their profit margins during periods of high unemployment and weak markets. Aside from the possible case of the steel industry in the middle 1950's, this kind of behavior does not appear to have been a major inflationary factor. But the first and fifth factors I mentioned above do appear to represent practices by which concentrated industries impart an inflationary bias to the economy:

By often failing to reduce prices in the face of either weak markets or above average productivity gains;

By target-rate-of-return pricing that results in a full pass-through of cost increases even in the face of weak product markets, and in some cases preserves profit margins or tries to preserve profit margins, by raising prices to cover the costs of unutilized capacity.

Industries characterized by large numbers and low concentration ratios are less likely to exhibit this kind of behavior. Their prices and the wage increases they are willing to grant respond more closely to the forces of the market. As a consequences, fiscal and monetary policies, by regulating the strength of market demand, can more promptly choke off incipient inflationary pressures. Inflation may indeed still occur if monetary and fiscal policies goof and permit excessive demand pressures to build up. But the correction of these errors would be swifter and the tendency for inflation to persist while unemployment increases would be less.

An antitrust policy which concentrated explicitly on helping to reduce the inflationary bias in the economy would require important changes, I think, in traditional approaches. Anticompetitive behavior would have to be judged in terms of its departure from competitive pricing policy, particularly in terms of how prices in an industry behave in the face of softening markets or extra large productivity gains. Downward price rigidity would become a *prima facie* reason for viewing the industry structure with suspicion. The desirability of divestiture and the breaking up of large scale units would be judged in terms of its likely effect on price flexibility, not in terms of the particular practices by which bigness had been attained or price rigidity maintained. I am not enough of an expert in antitrust matters to determine the extent to which this approach would require changes in the antitrust laws or could be carried out by a different execution of existing laws.

Let me close as I began. I believe that the current inflationary bias in the economy stems from a number of structural characteristics in our society. Not all of those structural characteristics can realistically be corrected by antitrust policy. If we are to have both full employment and reasonable price stability, some form of income policies will have to be around for the foreseeable future. But antitrust policy can attack some of the structural distortions in the economy; it can lessen, although not eradicate, the inflation which accompanies full employment; it can increase the likelihood that incomes policies will work. It can, therefore, help rescue economic policy from the cruel dilemma that it has been facing in recent years. A nation and its leaders should not be put in the terrible position of choosing between price stability and full employment. Both justice and economic efficiency require that we have both. Antitrust policy can help us have them.

Senator HART. Thank you, Doctor.

This is an antitrust subcommittee and the thing I react to first is apparently not an antitrust concern at all, except as all of us in Congress have a responsibility.

One thing on which all of you seem to agree—all three of you explicitly referred to it—is the action by Government itself that feeds inflationary fires and reduces competition.

Now, the politician in us—although Senator Hruska is much better disciplined than I on this—is always to point to somebody else and say why don't you shape up. Characteristically, we point at big business and big labor and say you are the fellows.

What you tell us this morning is that while it might be correct to make that kind of speech—and there may be things we can do to influence other entities which are in the private domain—we here in

the Congress do not have to go to somebody else to get that fellow to fix a problem. We have created a problem which we, if we have the guts to do it, could fix ourselves; namely, all of these intrusions by Government that prevent competition from working. You say it is not the result of some secret boardroom decision or some high powered group of labor leaders that produces that kind of anticompetitive influence in the marketplace. It is Congress publicly passing laws and continuing programs that do all the bad things that Members of Congress make speeches about business and labor doing.

Dr. SCHULTZE. I agree.

Dr. WEIDENBAUM. In a sense, Senator, you are saying—I know I agree, I think we all agree, the Government ought to get its own house in order. It is one thing to point the finger, say, at business shortcomings in the competitive sense, but when we look at the shipping industry, it is the Jones Act which was passed by the Congress. It was not passed by the shipping industry or the shipping entities. When you look at construction labor problems you see that the Davis-Bacon Act is an interference with competition. The AFL-CIO did not pass that. The Association of General Contractors did not pass it. They might support it, of course, but, gentlemen, you passed it. You maintained the Davis-Bacon Act, the Jones Act, the myriad of legislation that interferes with the free functioning of an effective market economy.

Dr. MELTZER. Let me make a general statement on that point, if I may. I would venture to guess, Senator, that the worst monopoly practices in our society are practices that are maintained and enforced by various units of government. Originally governments established monopolies for some desirable purpose without being aware of the longer-run consequences of the policies.

Dr. SCHULTZE. Could I make several other points on this? Let me add one item to the list which none of us mentioned explicitly but I think also is very important, and that is in the area of medical prices—health care prices, which have been rising rapidly. For example, hospital charges have been rising at about 15 percent a year.

Now, you have a practice under which in medicare and medicaid, which cover in big cities in many cases 40 percent of the patient load, and under the policies of private insurance companies which go right along, of simply paying cost plus hospital—and the hospital is a free workshop for the doctor. All the costs are paid and you usually get the business, well, let us run about 16 extra tests or let us bring in a couple of extra machines. You are not paying for it, I am not paying for it, they are paying for that. So I will add to that list not exactly monopolistic practices but a very, very poor way by which this country has gotten around to paying for medical care.

Let me make a second point on a lot of these practices. In some cases they do not even work to get at the initial objective which is the reason for their existence. They do not even accomplish their original objective.

For example, in the case of merchant marine subsidies, they have produced over the past 30 years an increasingly inefficient merchant marine relative to the efficiency of other countries, an increasingly expensive shipbuilding industry. They are again cost-plus subsidy. The paradox is if they produced for us a vigorous competitive industry, competitive in the sense of competing with other nations, you might

say, OK, well, we got something for what we gave up, but we do not even get that.

Let me add one other point, if I might. Let us go back to Davis-Bacon. In effect, the concept behind the law presumably is that Government ought to pay prevailing wages on its construction contracts. Well, we can agree or disagree about the wisdom of that but how is it carried out?

It turns out that in defining prevailing wages, do they look at the average wage? They do not. What they do is take that wage which is paid to the largest number of people in a very large region.

Now, that wage is by definition, always going to be the wage paid to the union in a big city which is always at the top of the scale. So the way in which the concept of prevailing wages is carried out guarantees that you do not pick the average but you pick right at the top and then everybody starts to leapfrog trying to get this.

So it is not just the fact that these practices are there. They are carried out in many cases in ways which make them worse than they have to be and finally, they often do not even accomplish the purpose they were originally set up to get at.

Dr. WEIDENBAUM. Mr. Chairman, could I interject a point here? I agree with almost everything that Dr. Schultze has said except the justification for the concept of prevailing wages, that is, when we are talking about Government procurement, the basic principle is to award the contract to the lowest responsible bidder. And this, I believe, is a very desirable concept. It promotes the concern of the taxpayer to minimize the cost of Government activities. And this sort of determination, the whole Davis-Bacon concept, I would contend is inconsistent with the concept of the lowest responsible bidder. And studies have just been completed, drawing in part on General Accounting Office reports, to show that the determinations are not quite what we would expect.

In other words, the Labor Department is often bound by the kind of data that they have available. Well, given a very small staff, the only available data often are on union contracts. When they actually do a field survey of what actual wages are in construction in that locality, they typically find it is much lower, like the order of magnitude of 50 percent lower. Moreover, there have been cases, again documented—I have them here if you are interested—where the prevailing construction wage in Maine is determined by what the union wage in Boston is, which is a bit farfetched, I contend.

I do not mean to dwell exclusively on Davis-Bacon. I do not think any of us do, but I think it indicates the kind of problem which is analogous to your antitrust and monopoly situation when the Government does intervene as massively as it does in individual wage-price decisions.

Senator HART. I agree that we ought not dwell on a single one of the many Government intrusions in the competitive force. But since you have zeroed in thus far primarily on Davis-Bacon—I am glad you said you support the principle that is reflected in that bill. The taxpayer should get for his construction dollar service from the lowest—you did not agree?

Dr. MELTZER. That is not the principle of Davis-Bacon.

Senator HART. Well, let me react to the point that I did here. The taxpayer has a right to get his construction provided by—not the lowest bidder—but the lowest responsible bidder. Is it not appropriate for Congress to be concerned that the wage rate on Government work does not represent a sweatshop rate?

Dr. WEIDENBAUM. Yes.

Senator HART. All right. That was the point I would like to get into the record. And to that extent you agree with the concept of Davis-Bacon.

Dr. WEIDENBAUM. Senator—

Senator HART. Or is that not the concept of Davis-Bacon?

Dr. WEIDENBAUM. When I look at the operation of the Davis-Bacon Act, it is very hard for me to in any way associate the concept of sweatshop. We are talking about an industry where productivity hardly moves at all, where wages are so far above average, where the wage increases are so far above any productivity move, where the Government action is to accelerate the pattern of wage increases above productivity, above the economy as a whole.

I think that we have come a long way since the original concern of Mr. Bacon to avoid sweatshop situations. I think in practice, and this is true in so many of these regulatory and special interest programs—20, 40 years ago, during the depression when the Davis-Bacon Act, I believe, was enacted, this situation was so different than it is today and we have not kept pace with the fundamental change in the underlying environment.

Dr. MELTZER. May I make just a very brief comment? The idea of the Davis-Bacon Act is not to pay the minimum responsible price charged by any bidder. The purpose of Davis-Bacon was originally to prevent gangs or bands of people who wanted to work from moving into an area and competing for the jobs in that area. It was passed in 1931 when this was considered a very critical problem. One of the ways in which I believe Congress could avoid some of these problems would be to put time limitations on laws of this kind. That is, Congress should say this law, unless renewed, will expire after so many years.

Then if Congressmen and Senators want to correct an abuse because they believe there is a great public demand, we will not be hampered by such laws at a later time. The reason I say “hampered” is because once these laws are on the books, someone other than the original beneficiary of the act acquires an interest in the law. He has a monopoly position, guaranteed by the Government, that he wants to maintain.

The ultimate beneficiary may be very different from the person who was intended to be the beneficiary of the act.

Senator HART. I think at least in one of your prepared papers the point was made that these Government intrusions into the competitive flow might initially have been sound and in the passage of time and changing circumstances ought to be reviewed.

I think it was Professor Weidenbaum who said that it would be helpful if all of us, even including the group who thought it was the beneficiary of a specific program, understood that the total cost as self-defeating even for the particular interest group.

Let me turn that into the problem we have in Congress. You cannot correct the programs that no longer serve a useful purpose in one fell

swoop. Who is asked to surrender first? Is it the beneficiaries of agricultural price supports? Is it the oil industry with its quota system? Is it labor? And that gets to the ultimate question of the political influence of the interest groups.

Dr. SCHULTZE. I am sorry you asked that question because I do not think any of us has a very good answer to it. I surely do not, at least.

I think maybe you can take out of it several things. One, at a minimum, in entering into new forms of Government regulation and/or Government intervention, it would, I think, well behoove the Congress to look very carefully at the long-range implications, put a fairly short time fuse on it and review it before it gets locked in. That is easy to say and hard to do but the longer it is there the more it gets locked in.

There is a second element in this, in that in giving a subsidy to an industry which tends to interfere in the competitive environment, wherever possible do not attach it to a salable asset.

Let me give you an example. In the case of farm subsidies now in effect, although not exactly in law, the subsidy attaches to the land. If you buy a farm, in effect you buy the right to the subsidy. This gets reflected in land prices.

So a farmer who bought recently is not really getting much out of the subsidy because he has paid for right to the subsidy in the higher land prices but now when you try to get rid of it, you are really creating an inequity to the fellow who just bought.

Now, this is an easy principle to state and very hard to carry out but I think it is important to try to devise, if particular kinds of subsidies or particular kinds of intervention are necessary, devise techniques which, first, have an initial, very short time fuse and will be explicitly reviewed and, second, to try to insure that that subsidy cannot be bought and sold. If it is just reflected in asset prices, then you never get rid of it.

That does not answer your question but at least in terms of current farm laws coming up, current new proposals for subsidies, this fact of almost impossible—the impossibility of killing or to dictate the way the subsidy law is written or the way the intervention is written.

Senator HRUSKA. Dr. Schultze, I do not quite get this business of more Government interference in that regard by import quotas, and so on. There is the suggestion in some of the testimony here that there is interference with competition. There are unduly raised prices; and there is an inflationary basis in our economy furnished by import quotas and also by agricultural price supports.

Let me direct my comments, first, to agricultural price supports. Tell me, tell me where the basis for inflationary effect of interference with competition or raise in prices occurs by reason of agricultural price supports. In my State, corn was selling not more than 60 days ago for 90 cents a bushel. Cattle, fat cattle were selling for less than they were selling 20 years ago.

Parity is now in the sixties instead of in the eighties. And glibly we have listened now for the second day saying, oh, one of the first things we have to do is get rid of agricultural price supports because they raise prices.

Tell me, tell me, where is it?

Dr. SCHULTZE. Let me make several points with respect to that, if I may, sir. I certainly am not talking about completely getting rid of

agricultural price supports. There is a major problem of fluctuating farm prices greater than in any other sector of the economy and some protection is needed.

Point No. 2. If you will notice—as you are undoubtedly aware, productivity in farming has risen at a much, much faster rate than in almost any other major part of the economy. If you are going to have price stability in the economy, those industries with very rapidly growing productivity have got to have falling prices and if you prevent falling prices over the long run, you are going to get inflation.

Senator HRUSKA. They have not been falling and we have price supports. What is the reason and why is the constant charge made that these lay a basis for inflationary spiral?

Dr. SCHULTZE. It does not start inflation.

Senator HRUSKA. If you made that speech in Omaha or Des Moines or Kansas City—they would throw sticks and stones at you.

Dr. SCHULTZE. I would get lynched.

Senator HRUSKA. How high was it, \$1.05 to \$1.08, depending where you are and depending on the freight rate, but it was as long as 90 cents. That is less than at any time since World War II.

Dr. SCHULTZE. Let me make one point about this, with respect to this. Taxpayers spend about \$4 billion a year on this program plus consumers kick in another amount in terms of higher prices. If you look at where that goes, the smallest million and a half farmers get about 6 percent of it. The largest, the largest 16 percent of the farmers get about 70 percent of it. So here is a situation in which farm prices which otherwise would have been falling gradually have not. They do fluctuate, and in the long run this does add to the inflationary pressure and, secondly, most of the benefits of this go to fairly substantial—

Senator HRUSKA. That is beside the point. You made the charge in this testimony that by reason of agricultural price supports, there is interference with competition, unduly raised prices and an inflationary basis for the economy. What is the answer to that? That is beside the point, who raises and who gets the benefits. That is beside the point. Where is the inflationary basis?

Dr. MELTZER. Senator, I want to come down at least two-thirds on your side.

Senator HRUSKA. That is encouraging.

Dr. MELTZER. Because there are two separate issues here that I would like to separate. I believe it is an error to attribute the inflation to whatever monopoly elements are produced by the Government. Existing monopolies do not cause inflation.

Let us try to make a distinction. Let us suppose the Government reduces acreage in agriculture. Then if the price of corn would have been 60 cents, and the restriction raises the price by 10 percent, then the price is 66 cents. If the price would have been \$1.20 then it rises to \$1.32. That is a once and for all effect. As Dr. Schultze said, the effect is capitalized into the value of the farmland. It is there.

The next man who buys that farm pays for the land believing he is going to get the price subsidy. As long as the subsidies remain unchanged, there is no change in the rate of inflation as a result of the subsidy. They are once and for all time included in the price of farm products.

Now, as that price goes up and down, the subsidy remains in the price. The price of corn would be lower if there were no price supports under corn. There would be more corn grown year in and year out if the Government did not try to reduce or restrict supply.

Senator HRUSKA. It would end up that corn would be grown at a price less, at a cost greater than the price that would be received. Let us get some commonsense in here. When the price of that corn gets to be lower than the cost of raising it you are not going to have any corn.

Dr. MELTZER. Yes; provided the market for the corn—and this year we have a clear case—if the farmers anticipated last spring that the price of corn at the end of the year would be 90 cents, there would have been a great deal less corn grown. The problem was that the Agriculture Department and other people encouraged them to believe there was going to be a high price of corn, and because of a blight, a large destruction of the corn crop and, the farmers anticipated a competitive return on the corn they planted.

As it turns out the forecasts were very much in error. The corn crop was considerably larger, and the price of corn was considerably lower than the Agriculture Department forecast or the farmers believed when they planted corn. That is where we have—

Senator HRUSKA. Let us move into cattle. There was not cattle blight.

Dr. MELTZER. That is right.

Senator HRUSKA. What about cattle? Twenty years ago, 20 years ago, fat cattle were selling from \$31 to \$32. They are briefly in that area now. Twenty years later when the cost of raising a steer was half as much as it is now.

Now, then, tell me, why do you say constantly and this is the second day that it has been said and it has been said innumerable times since that agricultural price supports have to be abolished because they are inflationary and because they unduly raise prices and interfere with competition.

Dr. MELTZER. Remember, I started out partially agreeing with you. I do not say they are inflationary. They do cause a once and for all increase in the price. By restricting the number of producers we raise the price. In fact, that was the original purpose of agricultural price controls and restrictions.

Senator HRUSKA. There is not any control in cattle.

Dr. SCHULTZE. But the controls on feed grains obviously affect cattle.

Senator HRUSKA. Yes; it does.

Dr. SCHULTZE. In fact, the control on feed grains in the long run could protect potatoes. They interact with each other. I do not want to get into a long argument whether it raises the price once and for all or not. I think it does more than that because by the raising price of farmland, it reduces farm incomes and you have to have higher price supports in order to handle that. So it does have in the long run—

Dr. MELTZER. If you increase the amount of price supports and restrictions then, of course, you increase prices step by step with the increase in restrictions, but that is quite a different thing from saying that restrictions increase the rate of inflation.

Suppose we have medical aid and we have a licensed number of doctors. We keep the same licensing arrangements for doctors. Then the medical services cost the consumer more.

If the Government has a program to assist people to get more medical care, they are bidding up the price of those medical services. Those prices rise. They rise more because there is a monopoly restriction. The more we bid up the price of the services, the higher that price is going to be as a result of monopoly.

Senator HRUSKA. Let us not get medical doctors mixed up with veterinarians. Let us stay in one field or the other.

Dr. MELTZER. It is the same problem.

Senator HART. We moved from construction to shipbuilding to farms.

Senator HRUSKA. I would like to get into import quotas now.

Dr. MELTZER. It is the same problem.

Senator HRUSKA. There we have a situation and we have it all over the lot, textiles, oil, shoes, and beef. I cannot understand why import quotas are such objects of criticism when we consider, for example, in the field of shoes, a few years ago 2 percent of the market was taken up by imports. Now it is 30. Forecasts are that it is going to be higher.

Now, then, are we going to continue to export our jobs or are we going to say, wait a minute. We are not going to put an embargo on like so many of our foreign competitors do. They put an embargo on shoes that would come into their states but they dump their shoes in our area. The same thing is true about textiles.

You talk about unused capacity. What is the cause of some of this unused capacity? Is it not in the field of imports? And the same thing is true of textiles, the same thing is true of beef, where as much as 11 percent of the beef consumed by the public was imported.

Dr. SCHULTZE. Maybe it ought to be 20.

Senator HRUSKA. Sir?

Dr. SCHULTZE. Maybe it should be 20.

Senator HRUSKA. Maybe it should be 20 and what would happen if it would be 20? Then there would be a reduction in the producers of cattle and we would become dependent upon foreign sources. The cycle of cattle, unlike hogs and pigs that is twice or three times a year, is a 3-year cycle, and you just cannot turn on that spigot and turn it off. There is a tremendous capital investment that is necessary in it.

So, then, we would become dependent upon the foreign producer and we would witness a repetition of what we are witnessing in the oil import problem, for example, and we get into another can of gooeey, gooeey substance.

Dr. MELTZER. Senator, you are giving us a wonderful example of why it is that Congress passes legislation to raise prices. You see one set of purposes. You do not look at the price consequences to the consumer of the quotas on shoes or beef or tomatoes or whatever the particular commodity. You look at the domestic effects on jobs. You try to prevent the shift of resources in response to market forces and in doing so, you raise the prices the consumer has to pay.

Senator HRUSKA. Wait a minute. Again, I come back to cattle and hogs selling for what they were 20 years ago. You see, a farmer does not sell pork chops or hamburgers or T-bone steaks. He sells a steer on the hoof, or a hog, and those prices are right there.

Now, if you are going to talk about impact on the consumer don't you dare look at the farmer because he is not going to like you. He is not going to like you because it is not true that he has contributed to the increases in the cost of food. Food has gone up but the farmer has not got it and the rancher has not got it.

Dr. SCHULTZE. The prices of radios and TV's are lower than they used to be. If we had a policy to hold up the prices, the price index would be a lot higher. When you get productivity gains you are going to have to have prices coming down. You cannot stop those productivity gains going into prices.

Senator HRUSKA. To what other use can be put grazing lands for cattle? You can either go into the radio and TV or stay out but if you go broke, that is it.

Dr. SCHULTZE. Where the big growth has been is the feeding operations. This is where the big gain and increase in poundage has come. It has not been on the range but big highly capitalized feeding operations and that is where the big gain has been. There has been a huge shift toward fed cattle.

Senator HRUSKA. That large commercial feeding lot thing does not enter into it at all. That is a separate part because you cannot have feeding lots without raising the cattle first.

Dr. SCHULTZE. I understand that. This is where the big productivity gains have come and I think what all of us are saying——

Senator HRUSKA. I wish there were an explanation why it is said that these agricultural price supports give the economy an inflationary basis, unduly raise price supports and interfere with competition. Either there should be an explanation of that or a qualification of it or a withdrawal of that statement. It is unfair.

Dr. SCHULTZE. I think all of us simply are saying, Senator, with all of these practices, prices in these areas are higher than they otherwise would be.

Senator HRUSKA. That is not true.

Dr. SCHULTZE. You mean to say you would have the same prices of oil, same prices in textiles, the same price——

Senator HRUSKA. You cannot have the price lower for corn than it takes to raise the corn.

Dr. SCHULTZE. Then why have price supports? We do not need price supports, then?

Senator HRUSKA. Ten years ago it used to take \$1.05 to raise the corn and here the cost of raising the corn is more now because of fuel, implements, taxes, and so forth, and yet we are getting less for it now than the cost of production. Do not say that the prices will be higher without these price supports. They would not be at all.

Dr. SCHULTZE. And yet, interestingly enough, average farm income now compared to those periods is substantially higher. Of course, the cost of fuel and cost of labor has gone up but the cost per unit of productivity has gained substantially with new technology in the agricultural area.

Senator HRUSKA. That is adjusting itself because the number of farms has been reduced very, very spectacularly——

Dr. SCHULTZE. Correct, sir.

Senator HRUSKA (continuing). And dramatically, but nevertheless——

Dr. SCHULTZE. Correct.

Senator HRUSKA (continuing). The price per unit is much less now than it was 20 years ago.

Dr. WEIDENBAUM. Gentlemen, I would like to make what I hope is interpreted as a constructive suggestion, because frankly, whether we talk farm price supports or Davis-Bacon or import quotas, there are clearly pros and cons. These are not one-sided arguments. There are important considerations on both sides of the question.

I think the first thing we need—and it is so obvious you would think we would have it, but I do not believe we do, not on a comprehensive basis—is to know what each of these provisions is costing the taxpayer, how the benefit is distributed, and is the benefit worth the cost. I do not think we should start off with a preconceived notion that the costs exceed the benefits or vice versa.

We first need to get the facts of the matter and then arrive at our policy conclusions. I suggest we may be starting at the wrong end.

Dr. SCHULTZE. May I have one other point? I think the discussion shows one of the reasons why I opened my statement by saying are there measures which could be undertaken which would reduce the need for wage and price controls, that this discussion is any indication of a likelihood of getting all of these various areas, regardless of which ones we agree on or do not agree on. It is terribly difficult and if anybody put their hopes too hard on tackling these, I am not very optimistic about what would happen in all these different areas.

We can forget farms or quotas or any of the areas we have mentioned. They are exceedingly difficult to attack in the Congress.

Dr. MELTZER. But let us go one step further and recognize that the present system of wage and price controls is going to develop its friends. Some people are going to have an interest in maintaining them for a long period of time just the same as someone has been interested in maintaining each of the other restrictions put on the books over the past few years. If we continue the way we are going, 5 years from now we will be arguing about a whole new set of controls that damage consumer interests but which have friends and supporters because they are doing some things that certain individuals find advantageous.

Dr. SCHULTZE. I doubt that about wage and price controls. The one thing about wage and price controls, the one advantage is that I do not think anything in history shows they ever get a built-in vested interest except the bureaucracy that administers them. It was politically costly to Truman, politically costly right after World War II when we did not dismantle quickly enough, politically costly during the Korean war, so the one good thing about controls, I think, for at least the kind of periods we have had them in effect, they have not developed clientele that tends to keep them in existence, so far anyway.

Dr. WEIDENBAUM. In addition, the Nixon administration seems to have taken some action in a sense to make sure that this control apparatus self-destructs. What I mean by that, and I serve on one of these control boards, is that we are unpaid citizen volunteers, so we have a strong economic incentive to get the task over with as soon as possible.

Senator HART. Or become so necessary that you will have to be salaried? [Laughter.] It works both ways, although I doubt the latter would happen.

If I could, on the point of these Government programs which have been common in law, I do not want to leave our guests and witnesses in the position of having come in here and attacking price controls, and my first reaction, if I were to read the record, would probably have me saying we have all come in here and told us to get rid of these things. I want to correct that. As I understand it, you are not telling us to get rid of them. You are pointing to them as very clear examples of the introduction of Government influence restraining in some degree the competitive forces at work in the particular economic segment.

Now, I as an individual who has supported many of those programs have never claimed that it did not have a price effect. Even if I were an economist I would think I would have a tough time proving that it did not have a price effect. Of course, it does. But we justify to the extent we understand how many dollars and cents we are adding to the package that cost in terms of broader social benefits.

I do not want to get into the farm argument. I do not want to make an exception to that but in these other things with which I am familiar I know darn well it has a higher price tag at the end as a result of these actions. Professor Weidenbaum counsels us to find out what that price is in each of these fields, what benefits we can identify which would offset and, therefore, justify. Where the offset is adequate, fine. Where it is not, let us do something about it. That is about what all of you are saying; is it not?

Dr. SCHULTZE. I would agree with that except I start with a bias of having looked at some of these and find it hard to justify them, but basically, I think you are right.

Mr. WEIDENBAUM. If I may, Mr. Chairman, I would start off, for example, with the concern to maintain, perhaps hopefully to improve, the status of the family farm. I am not a farmer, I am not an expert on farm programs. Hence, I would like to see an openminded inquiry. For example, what are the alternative ways of improving the position of the family farm? Are the current Government methods better or worse than other alternatives? An openminded inquiry.

Frankly, I do not see that sort of thing going on. Just a debate on the pros and cons of the status quo, if you will. If, say, the objective of some of these programs, and I think it is a very important one, is to protect, to expand, the function of the family farm in America, then we need to array and examine the various ways of doing it, seeing which are the most effective ways and see does that correspond to what we are doing today? As I say, an openminded informational inquiry.

I think that is the first step of the process. And I think you raised a very important point here, I do not think any of us have just blithely said let us eliminate any of these programs. What we are highlighting is some side effects, some cost aspects of these programs, but we should also be aware of the benefits, the public policy concern that gave rise to these programs, weigh the two, and then see does this set of Gov-

ernment programs or another set of Government actions more effectively achieve the objective.

Senator HART. There are two things that are kicking around right in this session of Congress that I would like your reaction on. One is the welfare reform. That would be a subsidy, we are told. For a family of four the argument is we should underwrite at least \$2,400 a year.

Senator HRUSKA. Anywhere from there to \$4,000. There is one under \$4,000.

Senator HART. I was going to say and up. Further up. That has its effect on the price paid to laundresses, for example.

Then the other one is the U.S. steel producers who are operating at about 50 percent of capacity want us to protect them further from foreign imports by putting quotas on. How do you feel about those two?

Dr. MELTZER. The two are very different.

Senator HART. You bet they are.

Dr. MELTZER. The second one is, I think, an obvious case of abuse of the public power. If the United States—I come from a steel city, a city in which a lot of people are unemployed because of the problems of the steel industry. I do not believe it is in the national interest to protect the steel industry at the expense of the consumer by raising the price of steel. If the United States is going to produce a smaller share of the world's steel, so be it. Let steelworkers move to other jobs, do other things.

In the case of welfare reform, without commenting on the merits of any particular program, I believe the question is whether the program now being proposed is a better or worse alternative, very much along the lines that Professor Weidenbaum talked about a moment ago. The proposal is a better program than the programs we now use to help welfare recipients. It would encourage some people to get off the welfare rolls and into productive employment but into jobs which would give them more useful and valuable lives.

I think it has merit. It encourages people to do things for themselves, to improve. We will pay more in the short run, but society will benefit.

My argument is that social benefits exceed the social costs. In the case of steel industry quotas the social benefit is far less than the social cost, so on the same criteria we would want to accept one and reject the other.

Dr. SCHULTZE. May I add a point to that? The welfare reform bill as it was originally conceived, had one exceedingly important element, namely, it was designed hopefully to provide incentives for people to work. So that as your outside earnings increased, your welfare benefits were not cut back dollar for dollar. There was the concept of the so-called 50 percent tax rate, so as your outside earnings went up, only 50 percent of your benefits were taken back.

That meant that there were economic incentives for people to get off welfare, to find jobs, because they weren't penalized fully for doing it.

Unfortunately, the way the bill, H.R. 1, now stands, these incentives have been substantially eroded. First, on the face of it, two-thirds of your outside earnings are taken away. In addition to that, it is in some ways worse than the present system because the present system

allows an offset for social security taxes. Somebody going out to work pays 66 $\frac{2}{3}$ percent of his earnings back to the Government. Next he pays an additional social security tax on top of that. Next, if he gets above a certain income level he finds himself in the 14-percent income tax bracket. So that for many people, something like 80, 85 percent of their outside earnings will be taken away in the form of reduced welfare benefits, as a consequence of which it seems to me there are two things that need to be worried about.

One, the social problem of removing work incentives, and two, I will not say overwhelming but there is some economic problem of kind of reducing the labor force like holding those work incentives down.

Therefore, my own view would be that the concept of welfare reform which is kicking around and which was embodied in the bill originally considered desirable and good but that the current bill needs to be looked at very carefully to see whether it has not been amended so far in terms of reducing those work incentives that it is in questionable shape.

I think Senator Ribicoff has some amendments that would take care of part of it.

Senator HRUSKA. You mean the one approved by the House?

Dr. SCHULTZE. Yes. Senator Ribicoff has some amendments which would get back to the original spirit and reduce the tax on earnings. We seem to think as a nation the way to get rich people to do anything is to give them an incentive. I think it is right—monetary incentives. We have investment tax credit, we have accelerated depreciation for housing, and it is a perfectly valid concept. I do not know why we feel poor people are not interested in money but for some reason or other it is very difficult to get work incentives of a monetary nature built into these bills. I think it is very important. Very important.

Dr. WEIDENBAUM. Mr. Chairman—

Senator HRUSKA. Mr. Chairman, could we shift gears here just a little bit? I do not think we have solved any of the material we have discussed so far. References have been made to the incomes policy and one of the statements is that some form of incomes policy will have to be around for the foreseeable future. And I think you made some comment, Dr. Weidenbaum, in your field. I would want for the record, and so that we have more than just a label—would someone undertake to define or describe incomes policy; and second, the justification of some form thereof that will have to be around for the foreseeable future? Could we take those one at a time?

Dr. WEIDENBAUM. In my view, incomes policy is really a family of actions. The general idea is to get segments of the population not to use their full market power over wages, in the case of unions, or over prices, in the case of companies. The reason I say it is a family of policies is because when you have a freeze or the control system that we have now, this is a compulsory method of getting companies and labor unions to limit their use of market power.

However, that is not the only form of incomes policy. When it gets to the guilddpost or jawboning end, it is voluntary, you are voluntarily asking segments of the population not to use their power in the economy to the fullest.

That is my definition.

Senator HRUSKA. Would either of our other guests care to elaborate?

Dr. SCHULTZE. Yes. I think you are going to find some disagreement probably, particularly between Professor Meltzer and me, on this but I was the one who stated fairly firmly some form of incomes policy is going to be around for a long time. Professor Weidenbaum has pointed out we are like seven blind men looking at an elephant. You get different definitions as to what this incomes policy is. I agree essentially with his definition in some form or the other, either voluntary, semivoluntary, or mandatory, governmental standards and intervention into the wage and price setting process.

That can range all the way from a comprehensive set of controls over all wages and prices at one end down to the use of persuasion and public relations and jawboning at the other end. It happens to be my own view that there are some things in the middle that we can do which are neither completely comprehensive in detail nor just completely voluntary.

That is No. 1.

No. 2. I think that the evidence, although not conclusive is that we are going to be able to get the unemployment rate down to the neighborhood of 4 to 3½ percent for significant periods of time in the current economy without significant upward price movement. Therefore, as the lesser of evils, inflation, unemployment, or some form of continued but milder than current Government intervention in wage and price policies, I would choose the last. That is not good but it is less evil than perpetuating your high employment or long term steady inflation.

Dr. MELTZER. I would like to give a very brief definition. Incomes policy is a program to shift wage and price decisions from the marketplace where in my judgment, they belong to the Government where in my judgment, they do not belong.

A second answer to your question. I know of no economic justification for such programs. I believe it is clear and demonstrable that they reduce freedom of choice and freedom of contract. They reduce the efficiency of the economic system I believe they are unjustified. They are simply imposed upon the market system.

The reason we have them is that everyone does not share my view. I do not believe they have very much evidence that their view is more correct than mine.

Dr. SCHULTZE. And if we did, it would take all day to fight about it.

Senator HRUSKA. If the economists are that up in the air about it, mere Senators should not complain too much about their sense of mystification.

Senator HART. I agree.

Dr. MELTZER. On the other hand, they should do their best to make sure we only get the kinds of policies where there are some clear and demonstrable benefits, Senator.

Dr. SCHULTZE. That criteria would substantially reduce the burden of legislation.

Senator HRUSKA. There is one other factor that has been mentioned almost in every statement and that has to do with unused and excess capacity.

Now, what are the causes for unused and excess capacity? Is it an arbitrary decision of an automobile manufacturer not to build more than so many cars or of a steel company not to put out any more than so many tons? Is it his decision or is it the decision of demand and potential use and also affected of the volume of imports, competition from outside, with the capacity that we have here? So often we hear, and I know we have had hearings specifically in former years under the late and beloved and lamented Estes Kefauver, dealing with that thing where we would say it is a crime for industry to have so much excess capacity. They ought to continue to produce more instead of less. Could we discuss that a little bit?

Dr. WEIDENBAUM. I think, Senator, you raise a very important point and frankly, in my estimation, this is one of the key reasons that gave rise to the administration's new economic policy and the wage and price freeze and the wage and price controls system we have now. That is, how to stimulate an expansion in the economy, how to increase the rate of utilization of our resources, without—and this is the important proviso—without generating a new burst of inflationary pressure, because this is the policy box that we have been in in the last few years.

When we really try to increase the rate of utilization of our resources, we are generating rapid inflationary policies. Hence, the whole idea, as I understand it, of the wage-price freeze was to so break, to reduce, that inflationary momentum and psychology in the economy, so that expansionary policies then could responsibly be put into effect to increase the rate of utilization of our capital and of our labor resources.

You see, Senator, I am not putting the finger on labor or on management but on public policy for the low rate of utilization of resources, and I think that is where the finger should be pointed, that is, on public policy. I believe we now do have evidence of an expanding economy, perhaps not as rapid as some of us would like, but we clearly have an expanding economy, one in which the rate of utilization of our resources, capital as well as labor, will be expanding in this year of 1972 and in a responsible way because whether we are enamored with controls as a theoretical academic concept or not, the wage and price controls system is slowing down the inflation sufficiently so that we can have a responsible expansion in employment at the outset.

Senator HART. Can I ask to narrow that discussion to steel? Now, what would be inflationary? I mean, if steel production, which is now as I understand it, around 50 percent of capacity is increased, you are talking about utilization of resources, why—first of all, why is it at 50 and, second, why would it be inflationary to put it at 75?

Dr. WEIDENBAUM. Well, to put it simply, if the rate of utilization, the rate of production of steel were to suddenly be increased by the companies from, if it is 50 percent of capacity, to, say, 75 percent of capacity, I think in short order the results would be very inflationary for a very simple reason. When the U.S. steel industry goes broke, we then would be at the mercy of imports. In other words, it is just not a viable alternative.

Senator HART. You mean it would go broke if it increased production?

Dr. WEIDENBAUM. I could not see a massive increase, a short-run massive increase in steel production as a viable alternative.

Senator HART. If you produced lower cost steel would you not proceed to move——

Senator HRUSKA. If you sell them for less than cost, you cannot make it.

Senator HART. The cost of producing at half capacity is less than the cost of producing at three-quarters?

Dr. SCHULTZE. They will get some advantages.

Senator HRUSKA. What would you do?

Dr. SCHULTZE. In the first place, there are really three sorts of things that could happen. If the people who bought steel for automobiles, appliances, construction, themselves had better business, then at today's steel prices they would buy more steel. That is No. 1. So if you get a general expansion in the market demand, you clearly get some increase in the production of steel.

Looking at the steel industry itself, that alone, there is no reason to think this is going to be inflationary. The fact that the steel industry is producing more, probably would not raise its prices. There may be a few items on which it would but it probably would not raise its prices. Its labor contracts are already settled for the next, I do not know, 2 years. So the steel industry itself, that would not be inflationary.

You have then got to ask yourself, let us take a look at the rest of the economy as you expand. There are a lot of other industries in which either they do not have 50 percent excess capacity but maybe only 10 or 15, and equally if not more important, you have got to look at the labor market.

What happens to the demand for labor and to the wages that would be paid if the steel industry, the auto industry, the medical industry, every industry expanded, hired more labor rapidly? If the unemployment rate got down to 3, 3½ percent, within that 3 to 3½ percent, the unemployment rate among skilled workers might be only 1½ percent. What happens to wages? It is the interaction of all of these demands on different industries and on the labor market that give us our problem rather than necessarily one industry. In most cases if any one industry could expand and no others did, it would find much less reason for raising its wages or its prices than when everybody is expanding.

I do not happen to know why the steel industry has such a particularly low capacity utilization. It may be inventory policy. I have not looked at it carefully enough to know. But I am not sure we can get at the inflationary problem by looking at just that one industry. That is my point.

Dr. MELTZER. Senator, I would ask the question in a somewhat different and partly related, partly contradictory way.

The reason we have low utilization of capacity in steel is because we have had very bad monetary and fiscal policies in this country for the last several years. They were the kinds of policies we used to criticize in Great Britain. We called them stop and go policies. We are doing what Great Britain did. We try to do too much, try to manage by the Federal budget, by monetary and fiscal policy. We put too much stimulus in at some time, too little at others, and the result is we get this stop and go policy. We are now the victim of our stop and go policy and a lot of our current policy problems are the direct result of past policies.

I would like to add to that that in every industry there will be periods of excess capacity when technology changes, or when the U.S. competitive position in an industry declines. Steel is an example. During the fifties and sixties, especially during the sixties, the U.S. competitive position in steel declined. We have old plants and consequently we use them less fully now. The steel industry is now somewhat more optimistic about the effects of new technology on their old capacity. They hope they will be able in the seventies to do somewhat better at holding their share of the world market because of new technological developments in the production of steel that are beneficial to U.S. producers.

But the main reason that we now have 50 percent as opposed to a somewhat larger number, say 75 or 80 percent, is because we have had Government policies. We have tried to correct those policies by an even worse Government policy.

Dr. WEIDENBAUM. If I may in a sense paraphrase parts of what Dr. Meltzer has said, there is not enough demand to operate the steel industry much above 50 percent of capacity, and if they did suddenly on their own initiative operate at 80 percent of capacity, they would have steel coming out of their ears, and, as I said earlier, they would not have the financial resources to maintain that growth.

Senator HRUSKA. To carry the inventory.

Dr. WEIDENBAUM. Precisely.

There is one point on steel that needs to be discussed, I think. It came up earlier. That is this question of quotas.

I recently was in Pittsburgh and a senior executive in the steel industry made to me a major plea for support of steel quotas. Well, I live in St. Louis; a major export industry there is chemicals. I asked him, well, if we support you in Pittsburgh for a steel quota, and other nations then retaliate with quotas against our chemical industry, will not in a sense we be moving unemployment from Pittsburgh to St. Louis? Why should I support you? He shrugged his shoulders and walked away.

I do not think as a matter of public policy we can walk away from the situation. Trade is a two-way street. It is one thing when the people concerned about one industry focus exclusively on their import problem, but we are the world's largest exporter and we should not forget that. I think, frankly, we do tend to forget that there has been an accumulation of barriers to American exports over the years. I suggest the most effective way is not to just look at the easy solution of erecting more import barriers to keep out foreign exports but how to encourage—maybe I ought to use a much stronger term—foreign countries to reduce their barriers to American exports because therein, I think, lies the truly healthy solution to this problem that Senator Hruska raised earlier about the export of our jobs.

Dr. MELTZER. Particularly in agriculture.

Dr. SCHULTZE. One final point on this. I do not want to drag it out too far.

We also tend to forget very often that the people who buy U.S. steel or U.S. capital goods or U.S. chemicals in Germany do not give a—if you will pardon the expression—a damn about the dollar price. They care about the price in marks. And the exchange rate, the rela-

tionship between the price of the market and the price of the dollar is, of course, critical to balance.

But to get an appropriate relationship between exports and imports via a quota system versus getting an appropriate relationship by having an appropriate adjustment in the price that people pay for dollars, the latter is so much better and so much more beneficial to the American consumer and so much more beneficial to the American economy that while it does pose some difficulties to use the quota route as the means of restricting imports, as the means of getting some appropriate balance, it seems to me, is just choosing a bad policy in the face of a much better alternative.

The second proposition: Much of the problem about the employment of people in industries with import competition is, of course, exacerbated by the fact that we are running at a 6 percent unemployment rate and in periods in which this economy is moving ahead in full prosperity with a 4 or 3½ percent unemployment rate, while there still are problems, those problems are substantially less. People can find other jobs when a particular job disappears but it is much more difficult at the present time when we are running a sluggish economy.

So, it seems to me the combination of having economic policies which have kept us at 6 percent unemployment for a very long period of time and the failure or unwillingness to look at other alternatives to quotas can lead us in the long run to a pretty inefficient, rigid economy protected all over the place by all sorts of restrictions, and I think that is bad principally for the American consumer and his standard of living.

Senator HRUSKA. When you say people can find other jobs, I am glad for the piece and quiet of this room that neither Senator Magnuson is here nor Senator Jackson because they would explode very vociferously. They would say what do you mean getting other jobs. Come to Seattle and you will find people there having doctor's degrees, highly skilled and everything else. They cannot find a job.

Dr. SCHULTZE. I agree, they cannot, and one of the reasons, not the only one, but one of the reasons is the fact that all over the country people are finding it hard to find jobs. Seattle and San Diego on the west coast, because of the cutback in the aerospace industry, would have difficulty even in a prosperous economy.

I am not trying to say there would be no difficulties anywhere. But making a transition from, let us say, a high defense economy to a somewhat lower defense economy in a period of full prosperity is so much easier than trying to do it in a period of 6-percent unemployment with which there is no comparison even though Senator Magnuson would have, I agree—

Senator HRUSKA. And sending the SST abroad for production and use instead of making it here.

Dr. SCHULTZE. Except when that lemon—well, I am sorry. Maybe we ought not to get into that.

Senator HRUSKA. I said that with a semifacetious thought in mind.

May I raise one other thing by way of government interference and that is the interference that the Government on behalf of the American people, with some forethought of the Nation's well-being in the future, of imposing certain requirements and standards of an antipollution nature.

It is one thing—when we go into the matter of imports, it is one thing to be able to deal with an automobile that is manufactured in Germany or in France or in England because we can say, you have to have a certain attribute there of antipollution or you do not come in.

However, steel, a roll of steel does not pollute the atmosphere one whit. And if the European mills will be allowed to proceed to manufacture steel without the same kind of antipollution measures that will be required of American plants, they will have a trade advantage that again will be in the nature of a barrier. The reverse thing of a barrier.

Now, fortunately, that matter is being looked into and later this year there will be this global conference on antipollution for all manufacturers. But there is another example of Government interference, is it not? This additional requirement?

Dr. MELTZER. That is a more complex question than we probably want to get into. I think that the simple answer is that if pollution devices are in the public interest in the United States, then we ought to have them. If that reduces our competitive capacity, if we cannot export as much as before, we are going to run a balance-of-payments deficit as we have in the past but for different reasons.

Senator HRUSKA. What about the imports?

Dr. MELTZER. Then we have to find an exchange rate at which our exports will pay for our imports. We will be producing and consuming different groups of commodities but we will be at full employment.

Let me answer the question succinctly by saying these phenomena, while they are important and do produce shortrun perturbations, are not going to prevent us from getting to full employment if we pursue appropriate policies for getting to full employment without inflation. What prevents us from getting back to full employment without inflation is of bad general policies, particularly monetary and fiscal policies and balance of payments policies.

The reasons we are having the difficulties are not directly related to our antipollution laws, although they influence the shortrun perturbations. The reason we are having problems is because we have bad general policies.

Dr. WEIDENBAUM. Mr. Chairman, I suggest, however, that simple reliance on exchange rate adjustments tend to overlook what economists refer to as changes in the terms of trade or perhaps in plain English, the impact that these exchange rate adjustments would have on the real standard of living in the United States. Hence, I think to deal with the question of pollution that Senator Hruska raised. International agreements fostered through our international organizations would be a most desirable move. I think these should be encouraged.

If we do it, we are making, I think, a wise decision. If other countries do not do it, I think they are making a poor decision. But it need not affect our employment one whit. It may affect the kind of goods and services we produce. We may end up producing less of the goods and services that pollute heavily and more of the goods and services that do not pollute heavily. Our high technology industries in these regions do not pollute much. This is where we have got an advantage in sales abroad. Pollution control may stimulate growth even faster but it very well may hold down the growth of these industries of industries which pollute more.

Now, from a longrun national standpoint I do not think that is bad. In fact, it may be good because if we do want to reduce pollution, we want to emphasize production and consumption of goods that do not pollute so much and deemphasize production and consumption of goods which do pollute.

We have to be aware that this has an effect on individual's livelihood and we cannot cavalierly say to a town built around a paper-mill, by God, tomorrow you are going out of business and I do not care what happens to you. We cannot do that. We need a sophisticated policy that decides what we want to do. We have to take into account the human sacrifices in particular communities and we have to take those into account and make provision for aiding those communities, if necessary.

Senator HRUSKA. Two thoughts on that. One, a polluting steel factory in Holland or Germany pollutes the world's atmosphere. There is just so much atmosphere, so we are told, and the ecologists tell us eventually the impact of that is going to be felt, in the larger place than just in Holland or just in West Germany.

Dr. SCHULTZE. First, I agree they should be encouraged. Paradoxically, I think they should be encouraged not so much in our own interest but because maybe we ought to help other people think more about pollution. But if other people want to be so stupid that they pollute their water and air to sell us cheap steel and raise our standard of living I think they are wrong but let them go ahead.

I do not want to be that cavalier about it. I think we do need to have some international arrangements but I do want to point out that the whole business of pollution control is something in which as a nation we have deliberately decided, I think properly, that we are willing to pay a higher price for some of the goods and services we buy in order—and it is going to take a higher price; pollution control is not going to be done free—we want to pay that higher price because we value clean air and clean water. That is a rational decision. It is a decision which the marketplace alone cannot carry out. You do have to have government intervention. I am not sure we do well all the time. And we are to some extent deliberately sacrificing in terms of paying higher prices in order to get that.

To the extent that is the situation, you are correct, Senator. You are perfectly right, that if this is a matter in which their pollution affects us, then you are quite right and you have to have international agreements.

Senator HRUSKA. And the second is this, and we have had a good deal of criticism, again getting to a homely but a very important segment of the economy in the Middle West, in the matter of imported meats. We insist upon those meats being theoretically and by law produced in the same scientifically sanitary fashion as we produce them here. Immediately, when we beefed up the provision for that and increased the number of inspectors and the exactness of their operation we were told, oh, but you are protectionists. You want to use that means to cut down the imports of that product. And I have an idea that if we send inspectors into the steel mills of Europe and find out if they are polluting the air in the manufacture of their steel and thereby getting an unfair advantage, the same argument would be raised.

Again you say well, we can adjust to that. You add the unemployment caused by imports of textiles and shoes and sardines and beef and steel and all the rest and where are you? The sum total may be too big to absorb in other industries.

Dr. WEIDENBAUM. Senator, you raise a very important point and there are two aspects to that. The other aspect is when you listen to American industry, as we do, we hear their concerns. As exporters, there is the other side of the very same coin you raise, that is, that as exporters they encounter what they consider barriers to American exports of a suprisingly similar nature, that is, the internal regulatory mechanisms of potential importing countries often, it is contended, of policy which will cause retaliation against American exports.

So we need to realize that trade is a two-way street and we can focus on the import problem. We should not ignore simultaneously the export problem. We are the world's largest exporter and we need—I think this has to be underscored—we need to avoid initiating that sort of policy which will cause retaliation against American exports.

Senator HRUSKA. Well, except that we ought to catch up with them because we are getting feed grains, for example, into Europe. We are relegated to a deficiency position and when we get there; when we get there, the price of corn instead of being 95 cents, including freight and insurance, is doubled so that we can get corn onto the Common Market.

Dr. SCHULTZE. It is inexcusable.

Senator HRUSKA. We talk about retaliation. We ought to even up first and then discuss retaliation and I am very hopeful that in the negotiations that will follow as a result of the restructuring of the international monetary picture and the adjustment of the value of funds, that when we get to that aspect of it we are going to take care of some of the embargo situations of the foreign nations as well as of these nontariff trade barriers.

Dr. MELTZER. I agree with you completely on the point but I would like to add one more note to what you said. The fact that they have restrictions against us does not in any way justify our imposing restrictions on them. That is the direction of a trade war. We will lose and they will lose if we go in that direction.

The way in which we can gain is to try to get them to reduce their tariff barriers. Also, we can adjust our exchange rates more frequently than we have been willing to do in the past in order to adjust for the kinds of changes which are necessitated by changes in the mix of trade and in the mix of jobs. But we should not go the other route, the route of saying that because they impose restrictions, therefore, we must impose restrictions that are just as onerous. We hurt ourselves as well as them by imposing restrictions. They hurt themselves as well as us by imposing the restrictions they do.

The best policy for us to follow is, as you said, to try to get them to reduce restrictions, not to put new ones on.

Senator HRUSKA. You see, starting with Benson and Freeman and Hardin and now Mr. Butz, we have gone over there again and again, met with absolute stonewall resistance to any desire to even discuss the matter, and when Maurice Stans came back last year from Japan he brought the same story to us. They simply sit there and listen to you and say nothing.

Now, it is nice to say let us negotiate it out but what are you going to do when the other fellow just sits and does not say anything and insists—except to say, we insist upon our constitutional right to put as many imports in America as we wish. That is the position they have taken.

Now, what will we do?

Dr. MELTZER. Senator, we did the appropriate thing and unfortunately, we have now undone it. We floated the dollar, changed the terms of trade so that we would have more leverage so that we would not be the victims of these restrictions that they put on. Now, unfortunately, we have fixed the exchange rates for the dollar without getting reductions in tariffs. We ought to get the reductions and allow the dollar to float.

Senator HRUSKA. There is an understanding, is there not, that we will go into that and they have agreed to be nice people or reasonable people. Just how much value can be attached to those assurances only the future will indicate. But at least all of it could not be done at once and they have to do it piecemeal. Now, we are hopeful.

Dr. MELTZER. I think we found the formula, though, for getting the negotiations started, and I would like to emphasize that is the way we can improve our position.

Senator HRUSKA. Mr. Chairman, you have been most patient, as you always are. I apologize for taking so much time.

Senator HART. I doubt that you have taken more than I. In any event, it was well used.

Let me switch tracks again. We were talking about what we could do to persuade other governments to introduce more sanity into some of their regulations. Let me get back to some of the insanities of our own Government where we probably have a more direct influence and certainly a clearer responsibility.

The three of you named a number of Government programs which represent intrusions on the flow of competition. Certainly, you have the opinion that as to some of them, at least, they make no sense. Since we are always lecturing ourselves about priorities around here, if you were able to shoot down just one of those things, which would you fire on first, whether it is the number of taxicabs or the imports. You name it.

Dr. WEIDENBAUM. I would like to suggest a duet and the reason for that is because of the great difficulties in taking away an encrusted benefit to a single group. My duet is one to labor and one to business, to be evenhanded. The one subsidy, the one hidden subsidy to labor, self-defeating to the economy—that I would eliminate is the Davis-Bacon Act. The one hidden subsidy, certainly self-defeating as I indicated in the case of the Pacific Northwest, provision vis-a-vis business is the Jones Act. That is the duet that I would nominate.

Senator HRUSKA. Jones Act?

Dr. WEIDENBAUM. Yes, sir.

Dr. MELTZER. I have a whole list. I have not studied them all.

Senator HART. I know. We all do. I am asking—

Dr. MELTZER. I agree with Mr. Weidenbaum. The Davis-Bacon Act is very high on my list not only because it is a bad program in its own right but because it interferes with a great many other programs such as housing, that the Government is subsidizing. It gets in the

way of the goals the Government has set for housing programs, and makes housing more expensive so that builders cannot build under 235 or 221 (d) in many areas.

I would also like to add to the Jones Act the oil import quotas. They are completely unjustifiable arrangements. Also, I would like to know why we have regulation, for example, in some of the transportation fields, specifically airline transportation, why that cannot be a competitive industry.

There are some reasonably interesting examples of the cost of flying. Between Los Angeles and San Francisco, the fare is not regulated by the Federal Government. The cost of flying between New York and Washington, is regulated. The fare is substantially lower and has risen less between Los Angeles and San Francisco. The service is better. There are other advantages. This seems to be a case in which regulation is really not accomplishing a desirable purpose.

I would want to put that high on the list. I do not want to monopolize the time while I am talking about monopoly, so I will stop there, but it is not because I do not have any more to add.

Dr. SCHULTZE. If I were to use criteria for what were the most outrageous I would not come out too differently from my colleagues, but if I used another criteria which is what at the present time, probably does the most harm and, secondly, what it is most likely we could accomplish, I would take the medical area. The revision of the way in particular in which the Government reimburses under its massive programs, both physicians and more particularly hospitals, I think at the moment at least, that is one area which is probably amenable to change, I think the American people, in part because the prices are rising so fast, would support a real reform in this area, and second, I think it is a terribly important thing in the current inflation. I would pick that on those grounds.

Senator HART. Since Professor Schultze introduced the practicality, not which would you most like to see shot down but which you think is within range, would you be inclined to agree that perhaps that medical thing is any more practical and still important?

Dr. MELTZER. I certainly agree.

Dr. WEIDENBAUM. Yes. In fact, let me offer some additional testimony in favor of that, and that is as Dr. Schultze pointed out earlier, this essentially is a Government cost-plus reimbursement situation.

Well, you know, we have a lot of experience in Government cost-plus contracts, in the military specifically, and we have learned a lot. I think one thing we have learned that has been totally overlooked in the medicare and medicaid area is that if you are going to have a cost-plus Government contract arrangement, the Government has to pay a lot of attention to what goes into cost. Otherwise it is signing a blank check. That, I think, is the fundamental problem in that whole medical area, that we have signed a blank check by ignoring the whole idea of what is a reasonable and, hence, allowable in terms of reimbursement, cost.

Senator HRUSKA. Do you think there might be some overruns?

Dr. WEIDENBAUM. Yes, sir. However, let me point out—

Dr. SCHULTZE. We just do not quarrel with them as much in that area, that is all.

Dr. WEIDENBAUM. Another point we may have overlooked on this medical subject. We have increased the demand for medical care very

substantially and we should not be surprised that, given everything else, the price has gone up. This is sort of the most elementary economics. If you want to have a major increase in demand—where you have got pretty much full utilization of capacity—without a horrendous price increase, you had better do something to increase the supply at the same time.

Hence, I think any balanced health care program needs to pay a good deal of attention to the expansion, to the improvement of the supply, the delivery of health services. Here, if I may, I would like to put in a plug for the administration's recommendations to achieve the increase in supply, in the delivery of health services.

This merits favorable action by Congress.

Dr. SCHULTZE. Let me disagree a little bit with Murray on that. I really think the supply limitation is overstated. In the case of the medical area it happens to be a case in which supply creates its own demand. The individual consumer does not really judge what he is going to demand in medical care. His doctor does that. I have seen some research that indicates in areas with large numbers of doctors, the average time worked by the doctor goes down but the number of fairly complicated diagnoses goes up.

In general, in the case of hospitals, if anything, we probably have too many hospital beds. Quite literally most places in the country have too many hospital beds. Once they are there, they tend to be used. It is much more convenient for the doctor to take care of the patient in the hospital bed than take care of him at home.

If you look at this area you can find, for example, that we reward excess of use of the hospital because most of our private insurance pays you well if you go into the hospital but does not pay you if you just have a doctor's visit. In the case of the Government programs, in effect, they will pay for everything they do as long as they can show they have actually laid the cost out.

In the case of the medical profession we provide marvelous incentives for a radical intervention like the cardiac surgeon and lousy incentives for what really counts, preventive care. Every place you look in the medical system, the combination of what the Government is doing and what the system has developed, we literally reward inefficiency. It is not that we are neutral about it. We reward it. The more inefficient you are the more you get.

I would suggest as a key area in the case of inflation and as a key set of investigations before any kind of national health insurance is done that we have got to look at the way we pay, reward and give incentives to the medical and health professions for doing an inefficient job. I think it is one of the most critical things we have in this area.

Senator HART. This subcommittee has had some, not extensive, but some hearings that highlight some of the things that both of you have mentioned and it is my intention that we develop it more fully.

The second point I would like your reaction on will indicate perhaps what Dr. Meltzer had in mind when he said we have been using improper medicine for too long or been operating on false assumptions or premises. In any event, I hope you will enable me a little more clearly to understand this business of deficit spending in order to improve the economy.

Now, the original budget for this fiscal year, fiscal 1972, projected a deficit of \$11.6 billion. That was justified and intended to stimulate recovery. Today we read that the actual deficit will run about \$40 billion. That big deficit is because the economy did not grow as we expected it to.

The way the idea was presented was that the modest \$11 or \$12 billion deficit would stimulate the economy. Now we have got a \$40 billion deficit because the economy did not grow. Now, if a \$40 billion deficit could not do the job in fiscal 1972, what size deficit would be required in 1973? Or to put it another way, they are guessing that the 1973 budget we are about to receive will have a deficit in the \$20 billion range. What will its effect be not only on inflation but—what gives with this notion?

Dr. WEIDENBAUM. As the Democrats invented deficit spending, I guess they ought to go first, to be nonpartisan.

Senator HART. When this first was unveiled and explained this made good sense, that a full employment budget was good medicine. Now I am asking is this whole assumption wrong?

Dr. MELTZER. Senator, the reason you gave is the correct reason. The deficit is larger because the economy did poorer than was anticipated by the administration at the time they estimated \$11.6 billion. It would be wrong, in fact, harmful, to try to reduce that deficit by cutting spending at this time or by raising taxes at this time. It would be highly desirable in my judgment, over the longer pull to cut both taxes and spending, but it would be a mistake to do so as an anti-recessionary measure to reduce the size of the deficit.

The deficit is large for exactly the reason you said, because taxes are smaller than anticipated at the time that budget came to the Congress. That is not where the bad policy has come on. It has come elsewhere. First, our balance-of-payments policy has been abysmally bad for something like 8 years and has only recently been partially corrected. Second, monetary policy, has been very bad for as long as I can remember with only brief periods of enlightenment that do not last very long. At this particular moment, monetary policy is inappropriate again.

Dr. SCHULTZE. Senator, let me try an analogy, if I could. Take a community, a coal mining community, for example, in trouble, limping along, and then all of a sudden an additional number of people are thrown out of work in that community. Because they have outside resources, maybe relatives or friends or they can borrow somewhere, they continue spending at their normal standard of living but their income is down so they are running a deficit.

That deficit does not stimulate that community to get it back healthy again. It keeps it from falling further than it otherwise would because people keep on spending. They continue their spending while their income is down, they are not spending any more than they were before in a sense. There is no kind of positive stimulation involved. Their "deficit" simply comes from the fact that incomes are a lot lower and unemployment is higher than was originally predicted.

That is the main reason. There are several others. But that is the big one.

I fully agree with Professor Meltzer that it sounds like a large number—I welcome it. I had the record when I was Budget Director, the

prior deficit was \$25 billion so I find it kind of nice to be taken off the hook. But I must say in all fairness that anyone who advised that the way to handle this problem is to cut that deficit substantially by reducing spending or increasing taxes at this time would, I think, be making a grave mistake.

Dr. WEIDENBAUM. Mr. Chairman, I would like to make a distinction between an active and a passive deficit. An active deficit would occur, and it did, when you increase expenditures or cut taxes so as to positively alter the budgetary situation. On the other hand, a passive deficit—you never get a really pure either/or situation—occurs when the economy does not produce the rate of revenues anticipated.

Now, to be sure, there was some of both in the movement from 11.6 to, I would guess, somewhere over \$30 billion. I have not seen the \$40 billion figure before.

Senator HRUSKA. It was in the paper this morning.

Dr. WEIDENBAUM. I would guess it defines perhaps the outer limit.

Senator HART. Even 30 would take Dr. Schultze off the hook.

Dr. SCHULTZE. Twenty-six.

Dr. WEIDENBAUM. However, I think it is important to realize here that this magnitude of deficit reflects the condition of the economy. Hence, I think you have here an example of three modern economists with different value systems, with different views as to monetary versus fiscal policy changes on many occasions, but here is an example where we are all, I believe all three of us, telling you the same thing.

Given the state of the economy, the projected size of the budget deficit for fiscal 1972 is something we should, gentlemen, live with. An effort to reduce that deficit would both be misguided and, worse, self-defeating.

I hope you do not behead the messenger who brings the bad tidings.

Dr. MELTZER. I would like to add one final point. I think it would be highly desirable from the standpoint of the economy both in its short and longrun aspects if with the same amount of deficit we had a smaller amount of Government expenditure and a smaller amount of taxes.

Dr. SCHULTZE. And I disagree, to get that on the record.

Dr. MELTZER. The Federal Government is absorbing much too large a share of the Nation's resources and is transferring resources from more efficient to less efficient uses.

Senator HRUSKA. We hear of a full employment budget; now, does that mean absolutely no unemployment or does it mean 3 or 3½ or 4 percent? What does it mean?

Dr. SCHULTZE. The standard calculation almost always used pro forma is with a 4-percent unemployment rate. The amount of production and income which would be generated with a 4-percent—

Senator HRUSKA. It is one thing to run a deficit at unemployment at 4 percent and another thing to run it at 6 percent.

Dr. SCHULTZE. That is right.

Senator HRUSKA. In the sixties—we have had deficits in the early sixties until quite recently we had under 4 percent unemployment and yet we ran heavy deficits.

Dr. WEIDENBAUM. I would like to ask Dr. Schultze—

Senator HRUSKA. With the exception of fiscal 1967, \$7 billion surplus.

Dr. WEIDENBAUM. I would like to ask along those lines, Dr. Schultze, what was the full employment budget deficit during the period that you ran the actual \$25 billion budget deficit?

Dr. SCHULTZE. On a unified basis it was probably about \$25 billion.

Dr. WEIDENBAUM. A \$25 billion deficit.

Dr. SCHULTZE. That year, Fiscal year 1968. In other words, when unemployment was a little below 4 percent. So that was a full employment deficit.

Dr. MELTZER. You still have a bad record.

Senator HRUSKA. 3.6 percent.

Dr. MELTZER. I would like to say, one can get locked in and should not get locked into the 4-percent notion. I do not want to minimize the unemployment problem but one ought to take into account that many of the people counted as unemployed are part-time people looking for part-time jobs, students going to school looking for part-time jobs. They are included one for one in the unemployment figures. The figures look the way they do because of the way we do our counting.

There is nothing wrong with our measure, but we ought to bear in mind that the numbers do not mean the same things in different periods. Sometimes there are more older married men, sometimes more children among the unemployed.

Senator HART. If one or all of you would like to add something to your prepared statement responding to something that has been said or that occurs to you now before we close the record, we would welcome it.

I have no further questions.

Senator HRUSKA. I have none, either.

Dr. WEIDENBAUM. Thank you for the opportunity.

Senator HART. It works the other way. Thank all of you for giving us the benefit of your judgment on so many different things.

We adjourn, to resume tomorrow morning at 9:30 in this room.

(Whereupon, at 12 noon, the hearing was recessed, to reconvene at 9:30 a.m., Thursday, January 20, 1972.)

(Prepared testimony of Drs. Weidenbaum, Meltzer, and Schultze follow. Testimony resumes on p. 129.)

TESTIMONY OF MURRAY L. WEIDENBAUM, MALLINCKRODT DISTINGUISHED
UNIVERSITY PROFESSOR, WASHINGTON UNIVERSITY, ST. LOUIS, MO.

About a year ago it was fashionable to debate the relative effectiveness of monetary and fiscal policy. I should like to recall the stock but serious answer that I frequently gave. First of all, I would rephrase the question to read, "Which is weaker, monetary or fiscal policy?" My answer was "both".

By that I meant and still maintain that following the classical prescription of tightening monetary and fiscal policy to bring down inflation was not working as well as we should have expected. Such economic policies were succeeding in bringing something down, but all too frequently that something was employment rather than inflation.

Moreover, a reversal of the policies brought comparable problems. All too frequently, monetary and/or fiscal ease was resulting in more inflation rather than in bringing down the unemployment rate. This is quite a policy box for a country to be in. Moreover, to talk in terms of accepting inflation in order to obtain high employment is misleading. A continuing high rate of inflation inhibits the return to full employment because it inevitably restrains our willingness to maintain expansionary policies. That is a key point that is often overlooked: in a modern economy, one of the prices that our society tends to pay for inflation is a higher level of unemployment than would otherwise be the case.

What should be done? Basically, we need to deal with those concentrations of private economic power which have become insulated from the influences of aggregate monetary and fiscal policy. In the short run, I believe that we are on the right track. That is, we need to use some form of "incomes policy" to get those sectors of the economy where substantial concentrations of private market power exist to abstain from using such power to its fullest. Clearly, the Nixon Administration's compulsory wage and price restraint effort deals with that central issue.

To the extent that the combined effects of Phase I and Phase II do succeed by and large in eliminating the inflationary psychology in the economy, the bulk of the problem will have been dealt with, at least in the short run. Certainly, we all look forward to an early elimination of compulsion over individual wage and price decisions.

I almost said that we all look forward to an early return to the free market. However, let us not delude ourselves. Although in the overall ours is essentially a market system, many parts of the American economy prior to August 15, 1971 did not correspond to the competitive market model that we like to talk about so much. In so many cases, labor groups, business groups, and professional groups are in position to control or at least strongly influence the segment of the economic pie that they receive, because of their power over wage, price, and productivity decisions. As you can see, I am taking pains not to point the finger just at labor, or just at business, or just at the services. In fact, I would not limit the analysis to the private sector.

So much of the departure from a freely functioning competitive economy—in which monetary and fiscal measures would work far more effectively than they have been—results from government itself. Far too often, government statutes and regulations have given rise to the problem that faces us. Far too often, legislation designed to help one part of the society has harmed others and frequently without achieving the benefits intended.

I would like to cite a case in point. When I lived in the Pacific Northwest about a decade ago, I was struck by the self-decreasing nature of some of this legislation. Specifically the problem at the time was the Federal legislation requiring U.S. firms to use American vessels in coastwise trade. That seemed like a simple and straightforward way of helping the American merchant marine.

But how was it working in practice? Because of the shipping restriction, Pacific Northwest lumber producers were having great difficulty in competing against the Canadian industry in our own domestic markets. Apparently, the Canadian lumber industry, not being limited in choice of vessels, could often deliver the product to the important California market more cheaply than our own industry. Hence, what ostensibly was an effort to help one industry (shipping) merely turned out to hurt another (lumber), with the benefits all going to companies in other nations.

I believe that this is an appropriate time to examine afresh all of the Federal legislation, rules, and regulations which interfere with competition, unduly raise prices, or otherwise give our economy an inflationary bias. The accumulation over the years has been so substantial—production and import quotas, excess stock piles of minerals and metals, mineral and agricultural price supports, hidden subsidies, barriers to employment; "prevailing" wage determinations, restrictions on shipping, etc., etc.

I would anticipate that this committee has a full job on its hands if it decides to dig into this area in detail. For one thing, I would not underestimate the obstacles. That the cost to the nation of each of these special provisions may exceed the benefits to the Nation may not be the politically relevant criterion: the benefits to some particular group are likely to far outweigh the costs to them and thus a powerful "clientele" may have been developed.

Perhaps we need to get across the crucial point that when we add up the costs of all of these various special arrangements they outweigh the benefits even to the groups involved—that is with so many segments of the population attempting to insulate themselves from competition, the total effort is self-defeating. The "dead weight" of these interferences with economic progress and productivity reduces the slices of the "economic pie" available to all of the participants.

I would like to leave the committee with one final thought. Personally, I expect that the present wage and price control apparatus will be dismantled during the coming year or so. However, unless the underlying structural problems that I have been discussing are dealt with, I would anticipate later in the decade one or more bursts of inflationary pressures and subsequently additional experiments in "incomes" policy.

PRICE AND WAGE CONTROLS—STATEMENT PREPARED BY ALLAN H. MELTZER
FOR THE SENATE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

Any system of price and wage controls reduces freedom of contract and freedom of choice. Decisions to restrict these or other personal freedoms are justified in a totalitarian society by reference to some alleged, often vague and illusory, social benefit. In a democratic society, we require or expect some demonstration that the benefits to society exceed the costs of government policies, so that individuals how suffer losses can be compensated without eliminating the entire social gain.

Let me accept this principle and ask how it applies to the present system of wage and price controls. The costs are clear and positive; we have reduced freedom and efficiency. In exchange, we have received little more than unsubstantiated hopes, unverified conjectures and rhetoric about a new era and a "new ballgame." Can we expect benefits in the future that will more than match past and future costs? I know no reason to expect any such benefit or, indeed, any net benefit at all. We have treated freedom and efficiency as worthless by sacrificing both in exchange for nothing more tangible than promises based on hopes and beliefs of those who have been urging us to adopt controls for the past several years.

THE ALLEGED BENEFITS

What are the alleged benefits? I find three main arguments for controls as a solution to our present set of problems. One argues that controls reduce current inflation by reducing anticipated inflation. A second sees price and wage controls as a type of incomes policy. Although many of the people who make this argument recognize that incomes policies have not worked here or abroad, they claim to be hopeful that current efforts will meet with success because we start from a position in which output is below potential. A third argument views wage and price controls as a means of reducing the monopoly power of large corporations and large unions. I believe this argument is of particular interest to the members of the committee since it proposes price and wage controls as a substitute for more vigorous enforcement of existing anti-trust laws or as an alternative to new laws. I will discuss each of the arguments briefly.

The first argument is reversed. The public becomes convinced that the rate of inflation is slowing when they find themselves able to buy the same baskets of goods and services with a smaller increase in expenditure. Price indexes are useful devices for monitoring broad changes in the economy. To expect the public to regard changes in such indexes as more reliable measures of the rate of inflation than the facts they encounter in the market place is a poor principle on which to build a policy.

Perhaps the government can convince people that prices are falling by controlling some components of an index. Our knowledge of short-term changes in anticipations and in price levels is not so firm that we can dismiss the argument completely. Pushing beyond that weak general statement, however, we can say much more about the role of anticipations in the current inflation and in the attempt to control inflation.

Broad-based measures of prices rose at an annual rate of 4% in the second quarter of 1971 and about 2.8% in the third quarter. Almost every forecast I have seen for 1972 put the anticipated rate of inflation between 3 and 3½%. If these forecasts are credible, the rate of inflation is expected to rise next year. Apparently, the forecasters have either not heard or have not accepted the argument that price controls reduce inflation by reducing anticipations of inflation.

A possible remedy might be a law controlling the anticipated rate of inflation that forecasters are permitted to announce.

It is now generally agreed that controls or incomes policies cannot reduce inflation when total demand exceeds our capacity to produce. At most, controls suppress inflation under these conditions and only temporarily. Proponents of controls dismiss this argument as irrelevant now. They point to the number unemployed and to the low operating rate in manufacturing and conjecture that output can increase without raising prices or wages.

The broad record of experience offers very little support for their conjecture. During the twenties, unemployment rates were low, and resources were, for the most part, employed. Output increased by approximately 50%, and prices changed little. During the recovery from the worst depression of modern times, 1933-37, prices rose ten to twelve per cent while large parts of the labor force remained idle. Prices rose very little both when unemployment rates were

relatively high, from 1961 to 1964, and when unemployment rates were generally low, from 1952 to 1956.

Government monetary and fiscal policies are considerably more important than the current unemployment rate or the current rate of capacity utilization for determining the rate of inflation. Moreover, it is a mistake to believe that inflation can be controlled by controlling a few prices and wages. Inflation means that a broad based price index rises. Preventing a few prices and wages from rising distorts the numbers we use to measure the rate of inflation and misleads some people. I know of no reason to believe that changes of this kind have any significant effect on the actual rate of inflation, the rate of price change experienced by consumers and businessmen in the market place.

This brings me to the monopoly issue. Probably the most widely accepted myth about inflation is that inflation is produced by the independent actions of some special group. In recent inflations, business and labor monopolies have been cast as villains. At earlier times, "speculators" were often blamed for inflation.

There is no basis for the belief that monopolists are responsible for the current inflation or for earlier inflations. Nor, is there evidence that large firms raise prices more than small. The rate of price increase in the heavy industries—steel, coal, aluminum, autos, glass, or chemicals—in the year before the price freeze was lower than the rate of increase in many other sectors of the economy. Of the 25 consumer prices that rose most in the year ending June 1971, ten are food prices, mainly fresh foods, and seven are prices controlled and regulated by governments at various levels. The latter include airfares, taxi fares, freight rates, postage stamps and auto insurance rates. Hardly any of these goods or services are produced or sold by the type of monopoly usually pictured as a price leader.

THE ROLE OF ANTITRUST

There is an obvious reason why monopoly power and inflation are commonly associated in the public mind. The reason is that those who make this change fail to distinguish between high prices and rising prices. Monopoly firms raise prices above the competitive level by restricting output. Unions that are able to restrict entry into a craft or occupation raise wages for the particular craft or occupation. Government restrictions that reduce entry and competition raise product prices or the wages of employees in the occupations to which entry is limited.

An increase in monopoly power produces a one-time increase in the prices of those goods and services that are newly monopolized. If the government's monetary and fiscal policies are non-inflationary, a properly constructed price index will not show any increase in the rate of inflation. In short, anti-trust policy is not a substitute for controls, and controls are not a substitute for anti-trust policy.

I do not want to leave you with the idea that you should be unconcerned about prices. There is much that you can do, and that I hope you will do, to lower the prices the consumer pays for the goods or services he receives. High on my list of proposed activities would be an investigation of the costs to consumers of restrictions enforced by governments at all levels. Quotas on oil imports, restrictions on the importation of meat, vegetables, and other commodities, restrictions on the number of banks and their branches, laws regulating the wages received on contract construction, restrictions on the number of licensed taxicabs by most municipalities, restrictions on price cutting by airlines, tariffs on imports, laws restricting entry into crafts and professions, these are but a few of the restrictions maintained and enforced by government that prevent competition and raise the prices paid by consumers. Removing these restrictions would lower the prices paid by consumers for the services they receive. Removing the restrictions would have no noticeable effect on the rate of inflation.

TESTIMONY OF CHARLES L. SCHULTZE, THE BROOKINGS INSTITUTION,¹ BEFORE THE SENATE ANTITRUST AND MONOPOLY SUBCOMMITTEE

Mr. Chairman, members of the committee, in the announcement of these hearings the subject of today's session was entitled "Are there steps that make sense economically which would erase the need for wage and price controls?"

My short answer to this question is, "No." I am convinced that some sort of intervention by the federal government into the setting of wages and prices

¹ This testimony represents Mr. Schultze's personal views and not those of Brookings Institution.

will for a long time to come be a necessary condition for simultaneously achieving full employment and reasonable price stability in our economy.

On the other hand, if the question were rephrased to ask whether there are economic measure which, while not *erasing* the need for controls, would reduce their rigor and severity and give them a better chance of success then my answer would be, "Yes." I think there are economically sound measures which would moderate, even if they could not eliminate, the magnitude of the inflationary problem under high employment conditions.

In order to be more specific let me list and briefly discuss the major sets of economic conditions and industrial practices which either generate or perpetuate inflationary conditions.

Inflation can be generated and perpetuated by an excess demand for goods and services relative to the economic capacity of the nation to furnish them. When market demands are so high that the unemployment rate is pushed to very low levels; when the supply, particularly of experienced full-time workers in large sectors of the economy, becomes very tight so that employers are forced to bid up wages rapidly; when output presses hard on industrial capacity, inflation is bound to occur. Wages are bid up more rapidly than productivity gains, raw material prices soar, and on top of this profit margins begin to widen especially in competitive industries. But, paradoxically, inflation of this variety is not our major problem. If inflation only occurred when, for one reason or another, the sum of consumer, business, and government expenditures was excessive, the standard tools of monetary and fiscal policy could handle the situation by reducing the overall level of demand. Mistakes might be made, but there would be no reason for wage or price controls or for structural reforms introduced on grounds of inflation control alone.

The really intractable problem in our modern economy is that inflation occurs simultaneously with the existence of underutilized resources. In the current situation, an inflation which did indeed start with the overheated economy of the late 1960's, has persisted for more than two years after the overheating disappeared, and persisted through a period of substantial unemployment. In the mid-nineteen fifties we had an inflation which began in the absence of economic overheating and continued for about two years.

In short, if inflation occurred only when the unemployment rate had been pushed very low, and promptly disappeared once unemployment had risen to the $3\frac{1}{2}$ to 4 percent range, the problem we are discussing today would be insignificant. It is the fact that inflation persists, indeed sometimes begins, when unemployment is at or above 4 percent that poses real dilemmas for public policy.

There are, I think, five elements in the nation's economic structure and habits which lead to the problem of inflation along with high unemployment:

First, there is the fact that in a number of industries characterized by a high degree of economic concentration, prices are rigid downward—they often do not fall when economic circumstances in a competitive environment would dictate that they should fall. This leads to two inflationary consequences:

(1) Even under conditions of healthy and not excessive prosperity and growth, not all industries will experience the same rate of market expansion. Some markets will be expanding sharply, some moderately, and some falling. Costs and prices, we know, are likely to rise in industries whose markets are sharply advancing. If prices on the average are to remain stable, these price increases must be balanced by price cuts in industries whose markets are growing subnormally or are declining. This is what would happen in a competitive environment. But if prices in large concentrated industries are "sticky," if they resist falling in periods of weak markets, then the price averages cannot fail to rise. In short, since some prices are always rising in a healthy economy, others must fall to preserve overall price stability. Paradoxically, therefore, unless some prices fall the overall price index will rise, even when the economy as a whole is not overheated.

(2) Productivity expands at widely differing rates among different industries. Bureau of Labor Statistics studies of productivity gains among individual industries confirm this fact. But the rise in wage rates among the different industries is much more uniform than the rise in productivity. As a consequence, if wages generally are to rise at a non-inflationary rate—in line with national productivity gains—then the unit labor costs of industries with greater than average productivity gains will fall. Their above average productivity gains will be larger than the advance in wages. As a consequence their prices should be reduced. If, however, prices are sticky downward in concentrated industries with higher than average productivity gains, then profit margins will widen. In turn, it is most

likely that the increase in profit margins will not be allowed to go on unchallenged. Management won't let the margins rise too far above normal for fear of inviting unwanted new competition into the industry. Unions will seek to take the abnormal gains away and very often will succeed. Their success will be emulated by unions in other industries which do *not* have above average productivity gains. This will raise costs and prices in those other industries.

In summary, the failure of prices in concentrated industries to respond to downward economic pressures tends to generate an inflationary bias in the economy; in part because some price cuts are always needed to balance the inevitable price increases, and in part because the failure to cut prices in response to large productivity gains invites excessive wage gains which tend to be emulated in other sectors of the economy.

The nature of wage bargaining is a *second* major factor producing inflationary bias. The so-called "wage-wage" spiral tends to perpetuate inflation once started. Union contracts typically cover periods of more than a year—three-year contracts have become a common practice. A long-term contract signed during a period of economic overheating, say in 1968 or 1969, will usually contain a large wage increase, simply reflecting the inflationary conditions and tight labor market of the period. Subsequently, even when inflationary pressures subside and even if unemployment is rising, other unions signing new contracts will feel a necessity to win wage increases for their numbers equal to the wage won earlier by the first union. Settlements in such large industries as autos, steel, aluminum, aerospace, and can manufacturing influence each other. One large construction settlement, for a particular craft or in a particular locality, acts as a magnet for other crafts and other localities. Such mechanisms as the Davis-Bacon act and the union contracts for public employees in many cities help spread these construction wage increases widely.

If inflation, once started, is ever to be brought under control the sheer arithmetic of the situation requires that contracts signed after an inflationary boom is over contain lower wage advances than contracts signed earlier. But the "wage-wage" spiral and "follow-the-leader" union settlements substantially delay this period of adjustment and help perpetuate inflation long after labor markets have loosened up and excess capacity appears.

A *third* contributor to the current problem of inflation lies in the changing nature of the labor market. Fifteen years ago, when the overall unemployment rate was 4 percent, about 30 percent of the unemployed were teenagers and young adults. In 1969, when the overall unemployment rate also averaged about 4 percent, half of the unemployed were teenagers and young adults. Conversely, a smaller proportion of the unemployed are now skilled experienced adults than was true fifteen years ago. To reach an average unemployment rate of 4 percent today would mean a much lower rate of unemployment among the core of the experienced labor force than was the case in earlier years. And it is the tightness of the labor market among such experienced adult workers which probably has the most significant impact on key wage bargains. In short, 4 percent unemployment probably means tighter labor markets and larger wage increases than it did ten or fifteen years ago.

This is not to say that we should abandon our attempts to reduce unemployment to 4 percent or less. But we do need to face the fact that at this overall unemployment level labor markets may be tighter and wage increases larger than they once were, and that specific manpower training and public employment programs may be needed to reduce the size of the inflationary problem.

A *fourth* set of factors which operates to produce inflationary bias in our economy relates to the price-fixing policies of the federal government itself. Transportation rate regulation which discourages rate reductions, expensive farm price supports, import quotas (both legal and "voluntary"), subsidies to an inefficient merchant marine, Davis-Bacon wage provisions in government contracts, all operate in a generally inflationary direction, by reducing competition and putting relatively high floors under prices. Professor Weidenbaum has covered this set of problems in his testimony. I need not repeat, but do wish to underscore, the importance of the points he makes.

The *fifth* element of inflationary bias lies, I believe, in the ease with which highly concentrated industries pass on wage and other cost increases. Many observers have noted that these industries tend to follow "target-rate-of-return" pricing. During periods of economic overheating, they may raise prices by somewhat *less* than would be characteristic of competitive industries. But once monetary and fiscal policies succeed in throttling down the overheating, there is a ten-

dency for inflationary price rises to be perpetuated by target-rate-of-return pricing. Despite weakening markets, firms with substantial market power continue to pass along cost increases fully. Their resistance to wage demands based on market conditions which no longer exist is weakened, because of their propensity to raise prices to cover the higher costs. Moreover, as sales level off while additional capacity continues to be installed, these industries sometimes attempt to recover their target return at a lower rate of capacity utilization. This occurred quite extensively during the 1956-57 inflation. It is another factor which tends to perpetuate an inflation well past the period of economic overheating, and produce the paradox of general price increases during periods of less than full employment.

All of these five features of our economic system interact with and reinforce each other. "Follow-the-leader" wage settlements help spread to other industries the inflationary wage gains which arise when high productivity growth industries refuse to cut prices. The target-rate-of-return pricing helps perpetuate price increases long past the end of an economic boom and feeds back into wage increases through its effect on the cost of living. The total impact of these structural characteristics is greater than the sum of the individual parts.

What can anti-trust policy do about these problems? I do not pretend to be an expert in anti-trust policies and can only offer some highly tentative suggestions which follow from an analysis of the nature of inflation.

Let me first get out of the way what I believe is a spurious issue. In general I do *not* believe that concentrated industries generate inflation by arbitrary increases in their profit margins during periods of high unemployment and weak markets. Aside from the possible case of the steel industry in the middle nineteen-fifties, this kind of behavior does not appear to have been a major inflationary factor. But the *first* and *fifth* factors mentioned above do appear to represent practices by which concentrated industries impart an inflationary bias to the economy:

- by often failing to reduce prices in the face of either weak markets or above average productivity gains;
- by target-rate-of-return pricing that results in a full pass through of cost increases even in the face of weak product markets, and in some cases preserves profit margins by raising prices to cover the costs of unutilized capacity.

Industries characterized by large number and low concentration ratios are less likely to exhibit this kind of behavior. Their prices and the wage increases they are willing to grant respond more closely to the forces of the market. As a consequence fiscal and monetary policies, by regulating the strength of market demand, can more promptly choke off incipient inflationary pressures. Inflation may indeed still occur if monetary and fiscal policies "goof" and permit excessive demand pressures to build up. But the correction of these errors would be swifter and the tendency for inflation to persist while unemployment rises would be less.

An anti-trust policy which concentrated explicitly on helping to reduce the inflationary bias in the economy would require important changes in traditional approaches. Anti-competitive behavior would have to be judged in terms of its departure from competitive pricing policy, particularly in terms of how prices in an industry behave in the face of softening markets or extra large productivity gains. Downward price rigidity would become a *prima facie* reason for viewing the industry structure with suspicion. The desirability of divestiture and the breaking up of large scale units would be judged in terms of its likely effect on price flexibility, not in terms of the particular practices by which bigness had been attained or price rigidity maintained. I am not enough of an expert in anti-trust matters to determine the extent to which this approach would require changes in the anti-trust laws or could be carried out by a different execution of existing laws.

Let me close as I began. I believe that the current inflationary bias in the economy stems from a number of structural characteristics in our society. Not all of those structural characteristics can realistically be corrected by anti-trust policy. If we are to have *both* full employment and reasonable price stability, some form of incomes policies will have to be around for the foreseeable future. But anti-trust policy can attack some of the structural distortions in the economy; it can lessen, although not eradicate, the inflation which accompanies full employment; it can increase the likelihood that incomes policies will work. It can therefore help rescue economic policy from the cruel dilemma that it has been facing in recent years. A nation and its leaders should not be put in the terrible position of choosing between price stability and full employment. Both justice and economic efficiency require that we have both. Anti-trust policy can help us have them.

CONTROLS OR COMPETITION

THURSDAY, JANUARY 20, 1972

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:35 a.m., in room 318, Old Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senators Hart (presiding), and Hruska.

Also present: Charles E. Bangert, general counsel, David D. Martin, chief economist; Dr. Walter S. Measday, economist; Arthur Andersen, economist; Peter N. Chumbris, chief counsel for the minority; Kirkley S. Coulter, assistant counsel for the minority; Patricia Barrio, editorial director; and Janice Williams, clerk.

Senator HART. The committee will be in order.

Senator Hruska has called to say that he is delayed and may be delayed for an additional time, but authorizes us to begin.

The hope today is that we will have not one but two panel discussions. It will add to the continuity and I think it will permit our participants a little freer exchange.

We suggest each witness make an opening statement of about 10 minutes and after that, it is open to exchange among the panel and others of us here.

I would remind everyone that the committee is making a record of the proceedings and it will be easier for our reporter if we will try to insure that only one of us speaks at any one time. As the exchange develops, we are apt to forget that.

In the first panel we do welcome Mr. Jack Ybarra, from San Jose, Calif., of the Confederacion de la Raza Unida; Mr. Paul Kaufman, director, Appalachian Research and Defense Fund, Charleston, W. Va.; Mr. Arnold Miller, a coal miner, of Oley, W. Va.; Mr. James Washington, a coal miner, from Lando Mines, West Virginia.

Gentlemen, we welcome you, and Mr. Ybarra, if you will start as the first witness.

STATEMENT OF JACK YBARRA, PRESIDENT, CONFEDERACION DE LA RAZA UNIDA, SAN JOSE, CALIF.

Mr. YBARRA. Mr. Chairman, my name is Jack Ybarra. I am the president of the Confederacion de la Raza Unida. My business address is 1656 East Santa Clara Street, San Jose, Calif. The Confederacion de la Raza Unida is a coalition of 67 Mexican-American organizations in Santa Clara County. It has been organized since 1969 for the purpose

of securing appropriate and necessary social, political, and economic rights on behalf of the Mexican-Americans and poor people residing in Santa Clara County.

The question to which I would like to address myself is whether phase II of the President's economic policy accurately addresses itself to the economic problems of Mexican-American and poor people. It is my opinion that the President's economic policy must be concerned with the problems which poor people and minority people face. If positive steps are not taken with regard to this very large segment of the American population, then certainly the poor will be caught in an economic crossfire from which they cannot free themselves.

In order to give you a clear picture of the problems which have beset poor and minority people in Santa Clara County, from where I come, I would like to briefly describe the area to you. Santa Clara County is located approximately 50 miles south of San Francisco. The countywide population, according to the 1970 census is approximately 1,064,714. Of this total number, approximately 186,525 or 18 percent of the population are Mexican-American and/or Spanish-speaking.¹ We, therefore, compose the largest single minority group in the county.²

There are 15 municipalities in the county. By far, the largest municipality is the city of San Jose, and much of the growth of Santa Clara County is attributed to the growth of the city of San Jose. Since 1950, when the expansion-minded city manager, A.P. Hamman, assumed the reins of the city, San Jose has grown from an agricultural community with a population of 95,000, contained in 17 square miles, to an urban community of 135 square miles and a population of 445,779.³

As an agricultural valley, Santa Clara County provided employment for Mexican-Americans in the fields and orchards as well as in the packing houses and canneries. With urban growth, however, came large corporate land developers. The farmers and ranchers who once employed thousands of Mexican-American families sold their vast holdings to these land developers or became land developers themselves. The orchards and fields of the fertile Santa Clara Valley, which once fed the Nation, were now replaced with commercial, industrial, and residential development. As the fields and orchards disappeared, jobs for Mexican-Americans became increasingly scarce. There were fewer crops to be harvested and, therefore, no need for the farm workers. Major canneries and packing houses which processed the crops closed their doors and moved out of the county into other agricultural areas.

In short, the Mexican-American has been caught in the crossfire of the rapid urban development and economic growth which has been taking place in the county. Most of it, Mr. Chairman, has taken place in the last 10 years.

As development has progressed, the Mexican-American has been displaced, not only from his employment, but also from his home.

¹ See 1970 unreported preliminary census issued by the U.S. Census Bureau pursuant to a Nov. 29, 1971 Federal court charging that the Census Bureau has refused to release its Spanish-American statistics for the 1970 census, *Confederacion de la Raza Unida, et al. v. George H. Brown, et al.*, (N.D. Cal., No. C-71-2285).

² There are only 1.7 Negroes in Santa Clara County, according to the April 1970, census.

³ "Correcting San Jose's Boomtime Mistakes," *Business Week*, September 19, 1970, p. 74.

Without exaggeration, the Mexican-American has literally become a refugee in his own community. Thousands of people, 3,000 families, Mr. Chairman, are currently homeless families in Santa Clara County.

Long lists of Spanish-surnamed families await placement by the housing authorities of the city of City of San Jose and the county of Santa Clara. Other families, in desperation, have found shelter for themselves by doubling up with friends or neighbors. However, all too often their new homes have been inadequate and temporary, primarily because these homes are all too often in the way of a proposed freeway or urban development project.

It is from this vantage point and in this context that I address the members of this subcommittee regarding phase II of President Nixon's economic policy. While big labor, management, and industry concern themselves with wages and prices, the Mexican-American and other poor and minority people are being discounted and ignored.

I would like to define what I mean by a poor person. Although poverty has been defined in various ways, it has been most often defined in terms of economics. However, poverty is not restricted to OEO guidelines; poor people are not necessarily those who have incomes of under \$4,000 a year.

Rather, one may be marginally secure but still unable to buy a home in the neighborhood of his choice because of his race or national origin. Again, one may be marginally secure but still unable to voice an opinion in the decisionmaking process which affects his life. In a very real sense, Mexican-Americans and other minority people are poor, both socially and politically, and all too often economically.

Phase II must address itself to the concerns of poor people in this country and it must address itself to their needs both socially and politically, as well as economically in order to be meaningful. Poor people have essentially four major areas of concern: (1) Housing; (2) employment; (3) food and the necessities of life; and (4) direct input into the decisionmaking process.

Phase II of the President's economic policy must have a positive impact on these major areas of concern in order to be meaningful.

Housing. From 1960 to 1969, Santa Clara County was one of the fastest growing metropolitan areas in the country, increasing by some 45,000 people a year and generating an average of 15,000 new dwelling units a year.⁴

Highly skilled workers, attracted by expanding job opportunities, created an affluent population. However, there are many people who have not shared in the general prosperity. Mexican-Americans and other poor people have been caught in the severe housing shortage which has existed in this county. For minority and poor families, the national goal of a decent house in a suitable living environment has not been met. On the contrary, there has been an increasing inability of the housing market to respond to the needs of such disadvantaged households. The contrast in Santa Clara County between the poor and the affluent, and the Mexican-American and the white population, is never more apparent. There is no question but that there is visible geographical segregation of the minority and poor people

⁴ The Joint Housing Element: 1971, Santa Clara County, p. 1.

from the white and the affluent.⁵ Lending policies of the banks, municipal zoning, and land use policies, in addition to the policies of the Department of Housing and Urban Development, all play a role in the shortage and placement of housing for poor people.

A. Banks. Mr. Chairman, commercial banks play a central and a critical role in the development of a community. Government, particularly the Federal Government, is instrumental in the interaction between banks and the community. The Government plays a central role in the basic deposit gathering and lending operations of commercial banks and savings and loan associations. By law, these banks are given control over checking account deposits, which guarantees banks the interest-free use of these deposits. Further, Government insurance creates public confidence in the banks and encourages the public to deposit money in banks.

In addition to the guarantees provided under Federal law, the Federal Government deposits large and substantial sums of its money in banks, interest free.⁶ Deposits from Government sources give banks sufficient liquidity to attract more deposits and lever them further with greater flexibility.

Although banks effectively operate under the protective umbrella of the Federal Government, the lending policies of banks, vis-a-vis the minority and poor community, do not reflect social awareness of the problems of urban development and economic growth and its effect on the poor. The protection given to these banks by the Federal Government gives rise to a corresponding obligation on the part of banks to comply with the policy and goals of the Federal Government. Banks perform a public trust, and they do so by Government fiat. The decisions made by governing boards of the banks affect the entire community, including governmental structures. As a public trust, banks should be responsive to the needs of the community which they serve.

Nevertheless, the banks have not complied with the policy and goals of the Federal Government with regard to housing and placement of housing. The only question which banks are concerned with is whether its loan to a developer is secure and will make an anticipated return. Social concerns apparently do not enter into the consideration; the pattern of housing in Santa Clara County is visible evidence of this fact.

I recently had occasion to meet with the regional vice president of the Bank of America. He prided his bank's socially responsive policies. Indeed, the Bank of America has awarded scholarships, instituted training programs, and established a special loan program for minority businesses. One of the programs instituted by the Bank of America was of particular interest to me. The president of the bank established a special loan fund of \$100 million earmarked for a home ownership program for poor and minority people. The standards for qualifying under this special program were more lenient than that under FHA standards. The program was so successful that the president earmarked an additional \$100 million.

The problem with this special program was that it was earmarked for poor and minority people living in a certain geographical area. For

⁵ See appendix A.

⁶ "The Great Treasury Scandal of 1971," Martin Price, *Washingtonian*, September 1971, p. 58.

instance, in the San Jose area, the east side of San Jose, where most Mexican-Americans reside, was selected as the geographical lending area under this program. All minority and poor people living in the east side of San Jose potentially could qualify under the bank's loan program. However, only minority and poor people living in that given geographical location qualified. It was apparent that there would be a tendency for minority and poor people to move into this designated area because of the availability of the loans. Further, there would be a tendency for minority and poor people already living in this area to continue to live there, rather than attempt to move out of the neighborhood, since it would be more difficult to obtain a loan outside the area. In short, the Bank of America, through its lending policies, has assisted in creating an ethnically and economically imbalanced neighborhood.

Mr. Chairman, I would like to not continue with the written statement, as I have presented it to this committee.

Senator HART. I should indicate to you and others who will be with us today, that the prepared statements will be printed in the record in full as though given.

Mr. YBARRA. I would like to just close by emphasizing that as I see it, the structures that have been set up under phase II guides, that is, the Pay Board, the very important Price Commission, and the Cost of Living Council, these three structures are extremely important because the decisions that they make affect the lives of all poor people across this country.

The makeup of these boards does not reflect the makeup of the people that are affected by the decisions that these structures are making. So, I am suggesting, and it is part of my written statement, that there be amendments to the legislation that created the structures so that there may be an additional five seats on the Pay Board that would be for minority and poor people so that they can get their point of view and their opinions expressed and may get a chance and an opportunity to influence the decisions that are being made by the Pay Board. I am suggesting that five more seats be made available on the Price Commission for minorities and for poor people.

I am suggesting that an advisory board to the Price Commission be created so that minority and poor people in this country can get a chance to influence the decisions that are being made by the Cost of Living Council.

I will close by again suggesting, and it is all part of my written statement, Mr. Chairman, that there have to be some controls placed on the banks. The decisions that are made by banks affect the economic life of the entire community they serve. Because the banks are so heavily dependent on the Federal dollars and the Federal Government, they should be required now, since they are no longer private corporations as they contend—they are now as far as I am concerned, public corporations—there ought to be more citizen participation in the structures that govern these banks.

I am suggesting that requirements be made when a bank obtains a charter that there be meaningful and substantial citizen participation from the community that they serve.

Mr. Chairman, I am also suggesting—and it is part of my written statement—that the bottom level is now covered under the guidelines

of phase II, that is, that people that earn less than \$1.60 an hour be exempted from control, that that be raised to \$2.25 per hour. I read in this morning's paper that the Pay Board has suggested that it be raised above \$1.90 and that has been defeated. I am suggesting that it go to \$2.25.

Thank you.

Senator HART. As I read it—and if I am wrong, correct me, I read the rejection of \$1.90 as interpreted as meaning that a majority of the Board felt that the exemption should be higher. Is that the way—

Mr. CHUMBRIS. \$2.25 was suggested and that was turned down, and then \$1.90 was suggested. We have the paper here.

Senator HART. We will make sure the record reflects what in fact the Pay Board did.

Mr. YBARRA. Thank you.

Senator HART. Thank you very much.

(Mr. Ybarra's statement follows. Testimony resumes on p. 142.)

BEFORE THE SENATE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY RELATIVE TO
PHASE II OF THE PRESIDENT'S ECONOMIC POLICY

(By Jack Ybarra, President, Confederacion de la Raza Unida January 1972)

Gentlemen: by name is JACK YBARRA, president of the CONFEDERACION de la RAZA UNIDA. My business address is 1656 E. Santa Clara Street, San Jose, California. The CONFEDERACION de la RAZA UNIDA is a coalition of sixty-seven (67) Mexican-American organizations in Santa Clara County. It has been organized since 1969 for the purpose of securing appropriate and necessary social, political, and economic rights in behalf of the Mexican-Americans and poor people residing in Santa Clara County.

The question to which I would like to address myself is whether Phase II of the President's Economic Policy accurately addresses itself to the economic problems of Mexican-Americans and poor people. It is my opinion that the President's Economic Policy must be concerned with the problems which poor people and minority people face. If positive steps are not taken with regard to this very large segment of the American population, then certainly the poor will be caught in an economic cross-fire from which they cannot free themselves.

In order to give you a clear picture of the problems which have beset poor and minority people in Santa Clara County, from where I come, I would like to briefly describe the area to you. Santa Clara County is located approximately fifty (50) miles south of San Francisco, to the south. The county-wide population, according to the 1970 Census is approximately 1,064,714. Of this total number, approximately 186,525 or eighteen percent (18%) of the population are Mexican-American and/or Spanish-speaking.¹ We therefore compose the largest single minority group in the county.²

There are fifteen (15) municipalities in the county. By far, the largest municipality is the City of San Jose, and much of the growth of Santa Clara County is attributed to the growth of the City of San Jose. Since 1950, when the expansion-minded city manager, A. P. Hamman, assumed the reins of the city, San Jose has grown from an agricultural community with a population of 95,000, contained in seventeen (17) square miles, to an urban community of one hundred thirty-five (135) square miles and a population of 445,779.³

As an agricultural valley, Santa Clara County provided employment for Mexican-Americans in the fields and orchards as well as in the packing houses and canneries. With urban growth, however, came large corporate land developers. The farmers and ranchers who once employed thousands of Mexican-American families sold their vast holdings to these land developers or became land de-

¹ See 1970 unreported preliminary Census issued by the United States Census Bureau pursuant to a Nov. 29, 1971 Federal Court suit charging that the Census Bureau has refused to release its Spanish-American statistics for the 1970 Census. *Confederacion de la Raza Unida, et al. v. George H. Brown, et al.*, (N.D. Cal., No. C-71-2285).

² There are only 1.7% Negroes in Santa Clara County according to the April, 1970 Census.

³ Correcting San Jose's Roomtime Mistakes," *Business Week*, Sept. 19, 1970, p. 74.

velopers themselves. The orchards and fields of the fertile Santa Clara Valley, which once fed the nation, were now replaced with commercial, industrial, and residential development. As the fields and orchards disappeared, jobs for Mexican-Americans became increasingly scarce. There were fewer crops to be harvested and therefore no need for the farmworker. Major canneries and packing houses which processed the crops closed their doors and moved out of the county into other agricultural areas.

In short, the Mexican-American has been caught in the cross-fire of the rapid urban development and economic growth which has been taking place in the county. As development has progressed, the Mexican-American has been displaced, not only from his employment, but also from his home. Without exaggeration, the Mexican-American has literally become a refugee in his own community. Long lists of Spanish-surnamed families await placement by the housing authorities of the City of San Jose and the County of Santa Clara. Other families, in desperation, have found shelter for themselves. However, all too often their new homes have been inadequate and temporary, primarily because these homes are all too often in the way of a proposed freeway or urban development project.

It is from this vantage point and in this context that I address the members of this sub-committee regarding Phase II of President Nixon's Economic Policy. While big labor, management, and industry concern themselves with wages and prices, the Mexican-American and other poor and minority people are being discounted and ignored.

I would like to define what I mean by a poor person. Although poverty has been defined in various ways, it has been most often defined in terms of economics. However, poverty is not restricted to OEO guidelines; poor people are not necessarily those who have incomes of under \$4,000.00 a year. Rather, one may be marginally secure but still unable to buy a home in the neighborhood of his choice because of his race or national origin. Again, one may be marginally secure but still unable to voice an opinion in the decision-making process which affects his life. In a very real sense, Mexican-Americans and other minority people are poor, both socially and politically, and all too often economically.

Phase II must address itself to the concerns of poor people in this country and it must address itself to their needs both socially and politically, as well as economically in order to be meaningful. Poor people have essentially four major areas of concern: (1) Housing; (2) Employment; (3) Food and the necessities of life; (4) Direct input into the decisionmaking process. Phase II of the President's Economic Policy must have a positive impact on these areas of concern in order to be meaningful.

HOUSING

From 1960 to 1969, Santa Clara County was one of the fastest growing metropolitan areas in the country, increasing by some 45,000 people a year and generating an average of 15,000 new dwelling units a year.⁴ Highly skilled workers, attracted by expanding job opportunities, created an affluent population. However, there are many people who have not shared in the general prosperity. Mexican-Americans and other poor people have been caught in the severe housing shortage which has existed in this country. For minority and poor families, the national goal of a "decent home in a suitable living environment" has not been met. On the contrary, there has been an increasing inability of the housing market to respond to the needs of such disadvantaged households. The contrast in Santa Clara County between the poor and the affluent, and the Mexican-American and the white population is never more apparent. There is no question but that there is visible geographical segregation of the minority and poor people from the white and the affluent.⁵ Lending policies of the banks, municipal zoning and land use policies, in addition to the policies of the Department of Housing and Urban Development, all play a role in the shortage and placement of housing for poor people.

A. Banks.—Mr. Chairman, Commercial banks play a central and a critical role in the development of a community. Government, particularly the federal government, is instrumental in the interaction between banks and the community. The government plays a central role in the basic deposit gathering and lending operations of commercial banks and savings and loan associations. By

⁴ The Joint Housing Element: 1971, Santa Clara County, p. 1.

⁵ See appendix A.

law, these banks are given control over checking account deposits, which guarantees banks the interest-free use of these deposits. Further, government insurance creates public confidence in the banks and encourages the public to deposit money in banks.

In addition to the guarantees provided under federal law, the federal government deposits large and substantial sums of its money in banks, interest free.⁶ Deposits from government sources give banks sufficient liquidity to attract more deposits and lever them further with greater flexibility.

Although banks effectively operate under the protective umbrella of the federal government, the lending policies of banks, *vis-a-vis* the minority and poor community, do not reflect social awareness of the problems of urban development and economic growth and its effect on the poor. The protection given to these banks by the federal government gives rise to a corresponding obligation on the part of banks to comply with the policy and goals of the federal government. Banks perform a "public trust", and they do so by government fiat. The decisions made by governing boards of the banks affect the entire community, including governmental structures. As a public trust, banks should be responsive to the needs of the community which they serve.

Nevertheless, the banks have not complied with the policy and goals of the federal government with regard to housing and placement of housing. The only question which banks are concerned with is whether its loan to a developer is secure and will make an anticipated return. Social concerns apparently do not enter into the consideration; the pattern of housing in Santa Clara County is visible evidence of this fact.

I recently had occasion to meet with the regional vice-president of the Bank of America. He prided his bank's socially responsive policies. Indeed, the Bank of America has awarded scholarships, instituted training programs, and established a special loan program for minority businesses. One of the programs instituted by the Bank of America was of particular interest to me. The president of the bank established a special loan fund of \$100 million earmarked for a home ownership program for poor and minority people. The standards for qualifying under this special program were more lenient than that under FHA standards. The program was so successful that the president earmarked an additional \$100 million.

The problem with this special program was that it was earmarked for poor and minority people living in a certain geographical area. For instance, in the San Jose area, the East Side of San Jose where most Mexican-Americans reside, was selected as the geographical lending area under this program. All minority and poor people living in the East Side of San Jose potentially could qualify under the bank's loan program. However, only minority and poor people living in that given geographical location qualified. It was apparent that there would be a tendency for minority and poor people to move into this designated area because of the availability of the loan. Further, there would be a tendency for minority and poor people already living in this area to continue to live there rather than attempt to move out of the neighborhood since it would be more difficult to obtain a loan outside the area. In short, the Bank of America, through its lending policies, has assisted in creating an ethnically and economically imbalanced neighborhood. This bank's lending policies, compounded with other decisions which have been made, and are being made, by governmental entities has insured the East Side of San Jose to be a Mexican *barrio*, where schools are ethnically imbalanced to such a degree that integration of the schools for quality education is presently a grave concern.⁷

Phase II of the President's Economic Policy does not come to grips with the problems which face minority and poor people with regard to acquiring housing. The powerful lending institutions must be carefully examined and their lending policies must be made to comply with the national goals and objectives. In order to remedy this problem, I suggest:

(1) That the federal government establish appropriate regulations and guidelines whereby participation of the minority and poor community on the governing boards of lending institutions be required. In this way, lending institutions will be made to be responsive to the needs of the minority and poor community.

(2) That the federal government, through the Comptroller of the Currency and other appropriate regulatory bodies, establish a system whereby all banks

⁶ "The Great Treasury Scandal of 1971," Martin Price, *Washingtonian*, September, 1971, p. 58.

⁷ *Diaz, et al. v. San Jose Unified School District, et al.*, (N.D. Cal., No. C-71-2130).

and savings and loan associations report their lending patterns of home loans in terms of geographical location of the home, the racial or national origin of the borrower, and the economic status of the borrower.

(3) That interest-free deposits by the Federal government be used as leverage on lending institutions and deposited in those banks that are willing to extend more lenient loans to minority and poor people.

B. Municipal Zoning and Land Use Policies.—Closely related to the lending policies of banks is the problem of municipal zoning and land use policies of the various jurisdictions. Earlier, in my introductory remarks, I stated that Santa Clara County, particularly the City of San Jose, has grown from a sleepy agricultural community to a large urban area. The urban growth which began in 1950 and which went unchecked for twenty (20) years has left visible marks on the county and the fifteen (15) cities within the county.

The very real problem of concentration of minority and poor people in one geographical location of the county did not occur by accident. The fifteen (15) cities in Santa Clara County have a variety of zoning restrictions and land use policies. Two municipalities, Los Altos Hills and Monte Sereno, have a minimum one (1) acre zoning restriction which effectively prohibits the construction of multiple housing units under any of the FHA low and moderate income housing programs designed to provide housing for the poor.⁸

While other cities do not have prohibitive zoning restrictions, nevertheless, planning decisions have been made so that low-income housing is located in the *barrio*, and housing for the affluent is located in the suburban areas. The City of San Jose's planning policies are a case in point. Recently, the planning commission of the city approved a project to be located in an exclusive suburban area. The proposed project is to be located on one hundred one (101) acres and will be composed of single family and townhouse units. The single family homes will sell from \$32,000 to \$38,000. The three hundred (300) townhouses will sell from \$26,000 to \$36,000.⁹

Developments such as this one raise two important problems. First, the 1970 Census indicates that there is a marked spatial segregation of income groups in the county. The poor are found in the older areas of the valley floor, the *barrio*, while the higher income groups, those earning more than \$15,000 a year, tend to dominate the newer areas in the foothills.¹⁰ Additionally, there is a corresponding spatial segregation of racial groups. Mexican-Americans are found in the older areas, while there are relatively few Mexican-Americans in the higher income residential areas which are developing. Needless to say, the schools in the core city have a very high concentration of Mexican-Americans (80% or more) and poor people, while the schools in the suburban areas have very few Mexican-Americans (5% or less) and poor people.¹¹

Secondly, recent studies indicate that there are relatively few homes selling for less than \$20,000 in Santa Clara County, while more than one-third ($\frac{1}{3}$) of the new homes are selling for over \$30,000. In short, developers are building homes for the affluent. Escalating costs have precluded an increasingly larger share of Santa Clara County households from an opportunity for home ownership.

Many reasons may be attributed to the causes of segregated neighborhoods. However, in my opinion, municipalities have failed to impose meaningful restrictions and conditions upon developers when zoning and building permits are requested. One important condition which should be imposed upon private developers is that they should be required to provide funds to relocate families who are displaced as a result of their development. More often than not, those who are displaced are minority and poor people.

Another important condition which should be imposed upon private developers is that they provide homes for all economic segments of the community, and that they provide a proportionate number of homes in a price range that is within the reach of those families who have been displaced as a result of their development.

C. Rentals.—Because of the cost of home ownership, the very large majority of Mexican-Americans and poor people must rent. Although both the County of

⁸ *Zoning and Housing, Santa Clara County*, December, 1970, p. 59. See also, *Ybarra, et al. v. City of the Town of Los Altos Hills, et al.*, (N.D. Cal., No. C-70-2684).

⁹ *Ybarra, et al. v. City of San Jose*, (N.D. Cal., No. C-71-2239). This case questions the constitutionality of the city's zoning policies in the newly developing areas which tend to create ethnic and economic imbalance.

¹⁰ *The Joint Housing Element: 1971*, Santa Clara County, p. 4.

¹¹ "Racial and Ethnic Data, Santa Clara County Schools, Fall, 1970," prepared by the County of Santa Clara, Office of Education.

Santa Clara and the City of San Jose have housing authorities under Section 23 of the federal leased housing program, the number of units of such subsidized housing fails to meet the needs of the poor.¹²

Rental housing has also increasingly become more costly. Vacancy rates have fallen from fifteen percent (15%) in 1965 to less than three percent (3%) in 1969. Households earning less than \$4,000 a year are those most adversely affected by the short supply of rental units. It has been estimated that ability to pay \$120 per month in rent was necessary before the local rental market could supply an adequate number of units to balance supply and demand. Assuming a normal budget of twenty-five percent (25%) of monthly income for rent, it appears that a household in Santa Clara County had to earn \$5,700 a year before the market could supply an adequate opportunity to rent. For nearly 34,000 renters with incomes below \$5,700 there were only 14,400 units available at prices they could afford. In addition, the majority of unsound rentals in the county are in the rental range below \$120 a month.¹³

In my opinion, merely placing controls on the price of rentals is ineffective for it is apparent that according to the law of supply and demand, the price of rentals will skyrocket once the freeze has ended, particularly in the price range where there is the greatest demand, among the poor. I suggest that substantial federal assistance is needed to enlarge federal programs such as Section 23, Section 236, and Section 235. Only until the supply of housing meets the demand for housing will there be any stabilization in the price of rentals for poor people.

Thus, in the area of housing, Phase II of the President's Economic Policy fails to address itself to the pressing needs of the minority and poor people. Lending institutions, with all the advantages of government support, still remain unresponsive to the social needs of the poor. Although the cost of construction of new homes may be frozen through wage controls and price controls, nevertheless, for Mexican-Americans and poor people, the cost of occupying a home is still beyond their means. Although the price of rental units are frozen, for Mexican-Americans and poor people, the price at which they are frozen is still beyond their means.

EMPLOYMENT

The second major concern of poor people is employment. With the coming of the major electronic and aerospace industries in the early 1950's, Santa Clara County was transformed from an agricultural community to a major urban center. Lockheed, Fairchild Camera, Philco-Ford, and IBM, to name but a few companies, have located in Santa Clara County.

The influx of families tied to these industries created a demand for homes. Corporate land developers such as Foremost-McKesson and Kaufmann and Broad came to the valley to capitalize on this market. They purchased substantial acreage to build homes, and the orchards, ranches and farms disappeared from the scene and were replaced with tracts of residential developments. Agriculture as an industry declined in importance; and Mexican-American farm labor was no longer needed to tend the fields. Simultaneously with the decline in agriculture was a decline in the need for the canneries, packing houses, and other food processing plants. Again, Mexican-American cannery workers and food processors were displaced as these industries closed their doors and moved to other areas where agriculture was still a primary industry.

The conglomerates which located in Santa Clara County dictated the destiny of all people living in the valley, particularly Mexican-Americans and poor people. It was the decision of these major industries to locate in this county which placed the poor people in the economic, political, and social cross-fire of urban development and economic growth. It was these conglomerates which influenced the economic life of the people. It was these conglomerates which directed the political decision-making process in the community.

And yet, these corporate giants have not assumed the responsibilities to the very community whose economic, political, and social life has been disrupted by their coming. It is naive to expect that these conglomerates will assume social responsibility. Indeed, Santa Clara County is an example of their corporate irresponsibility. Public officials, particularly at the federal level, must impose

¹² The Housing Authority of the City of San Jose presently is funded for 1,490 section 23 leased housing, while the Housing Authority of the County of Santa Clara is presently funded for 800 units.

¹³ *The Joint Housing Element: 1971, Santa Clara County*, p. 3.

the most stringent restrictions on the actions of such corporations to minimize the disruption which these companies have set in motion. It may be too late for Santa Clara County to turn the tide. However, it is not too late for the hundreds of communities which will be victimized by socially irresponsible corporate giants.

If Phase II of the President's Economic Policy does not address itself to the growing power of these conglomerates, it will merely mean that government will be forced to step in and spend millions of dollars for housing and other related social services for those who have been displaced as a result of private corporate action.

In spite of the corporate irresponsibility however, Mexican-Americans and other poor people have begun to take positive steps from agricultural employment to industrial employment. The transition has been a slow, painful one. Phase II of the President's Economic Policy comes at a time when the Mexican-American has taken his first step toward living and working in an urban society. Whether Phase II will help or hinder his transition remains to be seen. At the present time, the guidelines of Phase II are not responsive to the needs of Mexican-Americans in several respects.

A. Affirmative Action.—The major electronic and aerospace industries in Santa Clara County depend on government contracts to sustain them. The words, "affirmative action", gives the Mexican-American hope that there is a place for him in the industrial society which is growing up around him. For him, affirmative action means more than hiring minority people at entry level jobs. It means job-upgrading. All too often, it has been our experience that minority people are hired to be the janitor or maintenance man; and all too often, minority people stay at that entry level position.

Within Lockheed Missiles and Space Company, the largest private employer in the county, there has been formed the Chicano Workers of Lockheed.¹⁴ The organization is a member of the CONFEDERACION. Their primary concern is to hire not only a proportionate share of the Spanish-speaking people into the company, but also to upgrade those Spanish-speaking people who are already there.

I am concerned that Phase II and the wage restrictions will tend to work at cross-purposes with our efforts in affirmative action and job upgrading. It has been established that salary and wage increases are to be held at 5.5% a year. Any greater increase requires a substantial change in job description. It would seem that under the guise of complying with the wage guidelines there will be a tendency to keep employees at their present level of employment. Thus, in complying with the Phase II guidelines relative to wage stabilization, there will be a corresponding lag on the part of the employer to carry on and implement an affirmative action program.

B. The Non-Unionized Wage Earner.—I am sure that I am not making a profound announcement when I say that minority people have traditionally had a difficult time joining unions and becoming a part of organized labor. For Mexican-Americans in this position, the wage freeze presents a very real problem. There is no one to represent the non-unionized employee *vis-a-vis* his employer. Further, because he is not a member of a union, the non-unionized employee has not had the advantages of collective bargaining agreements in the form of a decent hourly wage and other fringe benefits. In short, the wage earner who is not a member of the union is all too often a member of an ethnic minority who is at the bottom of the wage scale.

I am concerned that the wage stabilization effort will have a very adverse effect on this man's earning power since the wage freeze can easily be used as an excuse to keep him at a lower wage. Although it has been stated that the wage freeze will not apply to anyone who is earning less than \$1.60 an hour, the minimum federal standard, nevertheless, this exclusion is meaningless to the great majority of working people. At \$1.60 an hour, the wage earner brings home \$12.80 a day or \$64.00 a week. This is a gross income of \$3,328.00 a year, an income which is well below any poverty guideline.

In fact, a family of five (5) would do better to receive \$282.00 a month or \$3,384.00 a year on Aid to Families with Dependent Children. It is my suggestion that anyone earning less than \$2.25 an hour be exempted from the wage freeze. Furthermore, wage earners earning above that amount should be exempted from the wage freeze on a sliding scale, depending on his needs and the number of

¹⁴ There are approximately 19,000 people employed by Lockheed and Space Company.

dependents he must support. After reviewing the problem, I am sure you will agree that the wage earner who earns \$2.25 an hour is not the one who is responsible for the spiraling inflationary trend which has beset this nation. Rather, it is the person earning \$9.00 an hour with generous fringe benefits who must be curbed.

FOOD AND THE NECESSITIES OF LIFE

The third major concern of poor people is to provide food and the necessities of life for their families. In this regard, Phase II of the President's Economic Policy is weak in that it fails to take active steps to halt the increase of prices.

Poor people ordinarily spend all of the money they earn on the necessities of life. Rarely are they able to save money on a regular basis. During Phase II, I can see little change in the purchasing patterns of poor people. Their income will be spent on food, clothing, shelter, transportation and medical services. The poor person has few options opened to him. Therefore, if he needs a new pair of shoes, he will go out and buy it and he will buy regardless of whether the price of the shoes has increased.

It has been stated that prices will be held constant and will not increase more than 2½% a year. Some economists have speculated that this ruling will have an inflationary effect in that all companies will tend to raise prices to 2½% regardless of whether they need an increase in prices. If this is so, then the poor person who purchases goods out of necessity will buy goods at the inflated price, while the affluent person can afford to wait.

In order to minimize the adverse effect the price freeze will have on poor people, I suggest that price distinctions be made between those products which are necessities, such as food, and those which are considered to be luxuries.

There is another problem with price controls which adversely affect the poor. The guidelines have permitted the 2½% increase in prices across the board. A flat 2½% increase taxes poor people more severely than the affluent. Thus, to the individual earning \$20,000 a year, the 2½% increase will have less of an adverse effect than it will to the individual earning \$4,000 a year. The 2½% price limitation would be regressive in nature, and would affect the poor person much like the sales tax on goods.

DIRECT INPUT INTO THE DECISION-MAKING PROCESS

The fourth major concern of poor people has been to obtain direct input into the political decision-making process. Historically, in Santa Clara County, municipalities never thought that the Mexican-American farmworker, packing house worker, and cannery worker had any contribution to make to the decision-making process. Indeed, there was a conscious effort to exclude and discourage input from the Mexican-American community. It has been assumed that decisions were to be made *for* poor people and minority people since they, like children, were unable to make decisions for themselves.

This attitude has been reflected in the statements of public officials, bank executives, and other corporate magnates with whom I have come in contact. In short, there tends to be an insidious prevailing attitude among public officials and top level corporate executives that they know what is best for the poor, the minorities, and those who are in the lower economic and social class.

During the last few years poverty programs and model cities programs have been instituted throughout the nation. Purportedly, poor people and minority people are given a voice in the manner in which these programs are to be operated. Citizen participation, particularly participation of the poor and minority people, is encouraged. And yet, although these programs involve expenditures of substantial sums of money, they cannot compare with the millions of dollars which are being spent by government in other sectors. Thus, it has been my observation that while the poor and minority people involve themselves with the expenditure of a two million dollar model cities program, many more millions of dollars are being spent by the cities in expanding airports, building streets and expressways, and developing public transportation systems. In these latter areas there is virtually no participation from the poor and minority people although their lives will be substantially affected by the decisions which are made.

This same paternalistic attitude of local public officials is reflected in the formation of the structures that guide the Phase II program. It appears that there has been a conscious effort to exclude poor people, who, more often than not, tend to be members of ethnic minorities.

For instance, the Pay Board is composed of five (5) representatives from big labor, whose salaries amount to thousands of dollars each year; there are five (5) representatives from the conglomerates or giant corporate structures, whose salaries rival those of big labor; and there are five (5) so-called public members, whose respective backgrounds are so interlocked with big business that it is very confusing to the general public as to who represents big business and who represents the public.

It appears to me that there was a conscious effort made to include among the fifteen members of the Pay Board, the highest paid, the most influential, and the most powerful people in the country. There is no one among the fifteen who knows the problems of the poor, who knows the problems of the Mexican-American community and the poverty and misery that this community must struggle with on a day to day basis.

The Price Commission is composed of ten people, headed by university scholars and corporate executives from various industries. Once again, there is no one with an intimate working knowledge of the agony that the poor Mexican-American farmworker or unemployed packing house worker must struggle with each day of his life.

Indeed, it is safe to say that all of the representatives on the Pay Board and Price Commission are protecting their respective economic, social, and political interests. And I do not quarrel with this political reality of life. My concern is that there is no one on these bodies to protect the interests of the poor and the minorities whose interests heretofore have been overlooked if not ignored.

I need not go into a discussion of the other committees which are adjuncts to the Price Commission for the same criticism applies to these bodies in that they are just as imbalanced as the parent body.

In order to remedy this imbalance and lack of representation from a very large segment of the community, I propose several changes. Perhaps these changes would have been appropriate to suggest had I testified before this committee in December, 1971, prior to the time that the Senate extended the President's power. Nevertheless, these are the changes which I propose:

- (1) That the Pay Board be increased by five (5) members. The five members would be representatives of the poor and ethnic minorities.
- (2) That the Price Commission be increased by five (5) members. The five members would be representatives of the poor and ethnic minorities.
- (3) That all adjunct commissions to the Price Commission be increased by five (5) members. The five members would be representatives of the poor and ethnic minorities.
- (4) That a fifteen (15) member advisory board to the Cost of Living Council be established. The advisory board would be composed of representatives from the poor and ethnic minorities.
- (5) That the Secretary of the Treasury be authorized to be the *ex officio* member of the advisory commission. This would insure direct input to the Secretary of the Treasury, who is the chairman of the Cost of Living Council and the individual who directly reports to the President.

CONCLUSION

I have only touched upon some of the concerns of poor and minority people. A more detailed analysis would certainly point up the inequities of the present freeze in the areas of education, health care services, etc., which also affect the poor and minority community. However, by this statement, it has been my intent to impress upon you the simple fact that Phase II of the President's Economic Policy fails to take into consideration the pressing needs of millions of poor people who are economically deprived. Further, the programs fails to take into consideration the needs of the millions of Spanish-speaking Americans and the millions of Black Americans. In short, Phase II does not attempt to equalize the great inequities which presently exist in our country. Rather, it has attempted to stop the rising tide of inflation by mandating that all things be kept at the *status quo*. In an attempt to maintain the *status quo*, however, the powerful few, whether at the national level or at the local level, remain all powerful since no effective controls have been imposed upon them.

The substantial difference is that the powerful now have added sanctions from government so that in a very real sense government is aiding and abetting the powerful few, the power structure, to maintain its position of leadership and authority. By maintaining the *status quo*, Phase II simultaneously has had the

effect of keeping those who are poor, both economically, socially and politically, in that state of poverty.

In my opinion, Phase II is a simplistic answer to a very grave problem. Until national policy begins to address itself to our present system which continues to create gross inequities, we have not begun to attack the problem. For so many of our people the American dream is living in sub-standard housing which is located in a segregated neighborhood. It is discrimination in employment, whether the employer is a public entity or a private corporation with substantial federal contracts. It is attending segregated schools located in decaying quarters of the city which has inadequate facilities. And this American dream of the poor exists amidst plenty where technology and rapid industrialization have made, and are continuing to make, the affluent and powerful more affluent and more powerful.

Senator HART. Next, the committee welcomes a West Virginian who himself has served in the Senate of West Virginia, who subsequently became the director of the Appalachian Research and Defense Fund and it is in that role that we have primary interest or seek comment from the background and experience of Mr. Paul Kaufman.

Mr. KAUFMAN. Thank you, Mr. Chairman. With the chair's permission, I would like to yield to my compatriots from West Virginia, Mr. Miller first, and then Mr. Washington, if the chair will permit, and then I will make the concluding remarks on behalf of our delegation.

Senator HART. Very well.

Mr. KAUFMAN. Thank you.

STATEMENT OF ARNOLD MILLER, COAL MINER

Mr. MILLER. Mr. Chairman, honorable members of the committee, my name is Arnold Miller. I am president of the Black Lung Association, a miner organization that now encompasses seven States with a dedicated interest in solving miners' problems.

I want to address myself to the impact of corporate interest as I see it. I live in a State that is so dominated by corporations that everything but life itself is stifled. As times moves on, we have to make changes in our way of life; but our political process does not work because of corporate influence. Our State constitution needs to be revised. We have one of the most regressive tax systems in the Nation but we cannot legislate the necessary changes. When the people of my State turn to the judicial system for redress because of injustice, we find the same influence.

Sometime ago I talked to a corporation executive about our young people migrating out, and his reply was that he could not care less as long as there were enough people to operate their plants.

I have been very active for the last 3 years trying to find a solution to a very serious problem among the coal miners of this Nation. One of the handicaps has been the finding of doctors who had the skills needed who were willing to take on this task. I was shocked to learn, just 3 days ago, the corporate interest has become a roadblock in this respect also.

I have some information that a certain doctor has formed a corporation and is using this influence to force the lung specialists that we need so badly to leave.

Mr. Chairman, I am submitting what information I have to this committee and ask your help in this matter. I fear the life itself may be at stake in this matter.

Senator HART. Interrupting you there, certainly such information as you have on that we will review and if it is the basis for appropriate action, certainly we will take it.

Mr. MILLER. Thank you, sir.

We have another situation I would like to point out, the fuel energy conglomeration where oil and gas interests have merged with coal interests to such an extent there is little, if any, competition. This will cause higher fuel energy cost to the people of this Nation. Corporations could have been an asset to this country but they have been allowed to grow to the point where they have become a liability. We need relief in this matter if our way of life is to continue. Mr. Chairman, I want to thank you for the privilege of speaking before this committee in behalf of the people.

Senator HART. Thank you, Mr. Miller.

Mr. Washington.

STATEMENT OF JAMES WASHINGTON, JR., LANDO MINES, WEST VIRGINIA

Mr. WASHINGTON. Mr. Chairman, members of the committee, my name is James Washington, Jr. I was born in Milport, Ala., in 1916. My father moved his family to West Virginia, by way of Kentucky, in the spring of 1923. We have lived in West Virginia ever since.

I started to work in the coal mines at the age of 13. I worked in the summer months and went to school in the winter months. When times were really rough I worked during school months also. In spite of this, I can look back on my childhood and recollect many fond memories.

I can remember swimming and fishing in the clear, clean rivers and streams. I hunted in the mountains and valleys. I breathed the fresh, clean air and felt that it was great to be alive and to live in such beautiful surroundings.

It was in the late 1930's that the people in my county and surrounding ones began to get alarmed at what was happening to our environment. The streams became polluted; the fish disappeared; the mountains became scarred and barren; and the roads were ruined by overloaded coal trucks. Huge gob piles burned and are still burning, thus destroying trees and endangering animal and human life. None of these things happened until the days of the big corporations.

I, and other citizens I have talked with from West Virginia, indict the big corporations which have come into our State and have virtually destroyed its beauty and the dignity of its people. I have learned the hard way that these corporations do not worry or care about treating people fairly. They take millions of dollars worth of coal, timber, and gas out of the State and leave nothing in return except barren mountains, bad roads, polluted streams, and people who have been robbed of their birthright.

The people of West Virginia are determined to use whatever means they can to stop this and to see that a fair share of the extracted wealth is left in the State. Up to the present time, all we have been getting is the refuse. Our State is being used as a garbage dump for out-of-State interests who could not care less for the State or its people. These big corporations make coal a curse rather than an asset to the State. As

they operate now, West Virginia would be better off if coal had never been discovered there.

Following are some of the ways in which these corporations are destroying West Virginia :

1. Destruction of the environment. Land is stripped that is impossible to reclaim. Steep mountains are stripped of timber and coal with no regard as to where they are located in relation to people's homes, private property, and streams. Thus, homes are destroyed, streams are polluted, and mountainsides are eroded, causing slides and floods.

2. Cutting down the job market. These corporations feel no obligation to the people. Their sole purpose is to make money. The first way they think of is to cut down on jobs and keep production high. They do this through mechanization. They are willing to spend large sums of money on upkeep and repairs, but they never feel obligated to make more money by employing more people.

3. The use of discriminatory practices. The companies would hire white workers who lived 50 to 60 miles away in order not to hire local black workers. This has happened in some instances that I know of personally. My own father was denied a job because of this practice.

4. Unfair labor practices. In some instances, local people are hired, but the main work force usually lives in other communities some distance away or even in other States. This cuts down on union activity by keeping the men apart.

5. Absentee land ownership. The corporations buy up the land and the mineral rights and hold it in reserve. They will not sell it for homesites, and they do not let others develop it. They also pay very low taxes on it. If this land could be obtained by other people, perhaps small local industries could be started and developed, thus helping the economic development of the area.

6. They tend to control agencies. I have known mines that were unsafe and whenever the mine inspectors would come around they would be notified beforehand so they could get things seemingly safe for 1 day and when they did not get them safe, the mining inspector would not go inside but certify the mine as being safe anyway. They would cause people to not receive unemployment compensation by saying there was work available when there was not. They try to stop pensions connected with the coal industry such as black lung, social security, and miner's welfare, and workmen's compensation. They conspire to shut down small businesses. With their money and power they make a joke of the free enterprise system. They finance political campaigns, and in a lot of instances get their own people elected to office.

I know that the beauty of bygone days is lost forever, but I feel that there is something still left to salvage. Therefore, I ask that the plunder and pillage of large corporations stop now; I solicit the aid of all appropriate national and State committees, agencies, and persons to help us in this fight.

Mr. Chairman, I would like to add to this written statement that we feel also that the monopoly, is what it is, in all phases of the coal industry that has occurred in West Virginia, not only do they own the land and the coal but they own the coal carriers and they own the factories and it has been proven that about five or six big corporations, particularly the fuel industry and oil companies, just practically own

West Virginia and all its related industries to coal. They can set the price, determine the price of coal. Nobody has the right to say anything about it.

We feel that the ones who are going to mine the coal should not necessarily own the land. We feel that some parts of these corporations should be broken up and people in West Virginia who mine the coal—something should be done so they can mine the coal and somebody else should own the carriers. We feel that they are just getting larger and larger and we also feel that it has been due to laxity that they permit antitrust laws to be violated so much that they have grown and grown and grown and we think the time is to act now because acting at another day when they get larger is just going to be that much harder.

Senator HART. I do not want to be pessimistic, but the bigger they are, the tougher they are to unravel. There are many people who have the feeling that, in certain instances in this country, the time has passed—that the thing has gotten too big to unsnarl without even worse social consequences. I do not buy that necessarily, but I just think in fairness I should make that comment.

I hope most people react to the news stories of just a couple of days ago where a Federal agency which regulates one of the giants—American Telephone & Telegraph, said, sure, the statute required the agency to make a study of the rate base and determine what a fair return would be to A.T. & T. but A.T. & T. was too big. We cannot do it.

There is a regulated industry, with a Federal commission established to supervise it. The Commission—as I read the papers, said we are sorry—it is too big. I did not even sense any great outrage. Sure, some Members of Congress screamed.

Mr. CHUMBRIS. The Defense Department.

Senator HART. Yes. The Defense Department, not an insignificant assembly of power itself, has protested.

I did not intend to interrupt.

Now, Mr. Kaufman.

STATEMENT OF PAUL KAUFMAN, DIRECTOR, APPALACHIAN RESEARCH AND DEFENSE FUND, INC.

Mr. KAUFMAN. Mr. Chairman, first, I would like to express my thanks for your inviting us here today and giving us this opportunity to express our views on matters which are of great concern to you, to this committee, and to us.

You have heard from two eyewitnesses on the West Virginia scene, two of our most loyal mountaineers, men who have spent their lives in the coalfields of southern West Virginia. I can add little to their description of the condition of things as they are in our State. These conditions result, in large measure, from the domination, economically and politically, of the coal industry which in turn is controlled by a handful of large out-of-State corporations, such as the Consolidation Coal Co. Division of Continental Oil Co.

West Virginia is comprised of 55 counties containing less than 1,900,000 people. The nine southernmost counties contain approximately 30 percent of the State's total population and produce about 70

percent of the State's coal. Nine corporations own more than 33 percent of these nine counties with real estate holdings worth over \$90 million at grossly underassessed values. The top 25 landowners in the nine counties control more than one-half the total land area through their collective ownership of more than 1,600,000 acres of land. Of these nine corporations, only one is a West Virginia corporation doing business principally within the State. The others include Pocahontas Land Corp., a wholly owned subsidiary of the Norfolk & Western Railway Co.; the mammoth Georgia-Pacific Corp.; Western Pocahontas Corp., a wholly owned subsidiary of Chesapeake & Ohio Railway Co.; Island Creek Coal Co., a wholly owned subsidiary of the Occidental Petroleum Corp.; Berwind Corp., a diversified company holding huge tracts of land; Union Carbide Corp., one of the world's largest chemical combines; Beaver Coal Corp. and Bethlehem Steel Corp., a major national metals producer.

Ten coal companies produce roughly 51 percent of the coal mined in the nine counties referred to above. Seven of these 10 companies maintain their principal offices outside of West Virginia.

The effects of this corporate giantism have been devastating in many ways. Despite the fact that coal, oil and gas entrepreneurs have prospered almost beyond measure, the land and its inhabitants have not. As has been said before, West Virginia is not a poor State—it is a rich State inhabited by poor people. Employment in the coal industry has dropped from a high of 135,000 to barely 40,000 with automation. Coal production, on the other hand, is soaring. Contrary to the prevailing myth, the company's size is no index of safety. The most recent mine disaster at Farmington, W. Va., took the lives of 78 miners employed by Consolidation Coal Co., the largest producer in the State. Aside from the continuing high rate of injuries, the toll of black lung victims has been dramatically increased by virtue of the continuous miner—a formidable machine developed by the corporate giants.

The magnitude of the wealth of the huge companies which own many areas of West Virginia is matched only by the magnitude of the poverty of the people who live in these same areas. There are counties in West Virginia where one out of every four families is on the welfare program—an inadequate program at that. In the last 20 years, West Virginia has lost 15 percent of its population and the people are still leaving. Our streams are badly polluted from coal wastes and acid mine drainage. Our air is filthy from burning gob piles and slag heaps. Factories and powerplants dump their industrial garbage with little restraint.

West Virginia's once lovely mountains are being stripped, gouged, and ravaged in ever-increasing measure. The pace and character of strip mining has been determined by the corporate giants. Strip mining equipment, Mr. Chairman, is inordinately expensive. The bigger the company, the bigger and more destructive the equipment which they can afford.

Public services such as education, health care, environmental protection and public welfare are in a condition not dissimilar to the land itself—shabby. Through the coal industry's heavy influence in the State legislature, combined with the power of the manufacturers and the utilities, State taxes are kept so regressive and so unproductive that all services which are dependent upon public revenues are doomed

to remain inadequate. Until recently the entire coal industry paid less in taxes to the State of West Virginia than the State collected from cigarette smokers. West Virginia coal production at the same time, approximated 150 million tons per year.

Not only is the private government of the giant corporations beyond the reach of the citizenry, but it is beyond the State itself. The total annual budget of the State of West Virginia approximates \$500 or \$600 million a year. The total annual budget for any one of the giant corporations which compose the private government of West Virginia far exceeds that total. Members of the West Virginia Legislature just last year received a raise from \$1,500 to \$3,000 per year. The legislature meets only a few months out of the year. Staff facilities available to them are severely limited; they do not even have an office. On the other hand, lobbyists for the private government of the corporate giants are paid upwards of \$25,000 per year and are supported by lawyers, researchers, and experts in abundance.

The West Virginia Public Service Commission which is supposed to control all public utilities and common carriers operating in the State is required by law to be supported financially by the very corporations it is supposed to regulate, and its funding is minimal. Most of the State regulatory agencies are required by law to include corporate representatives on their governing boards, their appeal boards of their advisory boards.

Until recently, the president of Amherst Coal Co., was also chairman of the State air pollution control commission, for example. He is still on the commission. An executive vice president of the Continental Oil-Consolidation Coal setup is a former State tax commissioner. The executive secretary of the West Virginia Coal Association is a former speaker of the West Virginia House of Delegates. His predecessor with the coal association was a former president of the West Virginia Senate. A high official of Continental Oil Co., was once director of the West Virginia Department of Natural Resources, our conservation commission. The chairman of the State senate commission on natural resources is in the oil and gas business, as was the immediate past president of the West Virginia Senate. I could go on and on, Mr. Chairman.

In short, however, the State and its people are ill equipped to deal with the corporate giants which have tremendous power over their lives. Only the Federal Government is strong enough to provide meaningful relief. I would like to submit the following recommendations, few of which are original, for the committee's consideration:

1. A law requiring Federal incorporation of all interstate companies.
2. Enactment of a Federal severance tax on all extractive industries.

I heartily endorse the Metcalf bill, introduced into this body several years ago by Senator Lee Metcalf and in the House of Representatives by Congressman Ken Hechler of West Virginia. I would couple with Senator Metcalf's bill a tax on all mineral reserves to supplement the severance tax, and to be administered in like fashion, with full credits to those companies which were required to pay the same tax to the States in which they operate.

3. Strengthen the Federal coal mine health and safety law, currently under review by the Senate Labor Committee, by clarifying

its black lung provisions, and by including provisions for civil suits for damages and injunctive relief to aid in enforcement.

4. Require approval by the national Environmental Protection Agency of every new industrial undertaking based upon detailed preplanning for waste disposal and preservation of the environment in each case. These requirements would apply to coal operators, manufacturers and utilities alike and would give the national Environmental Protection Agency the kind of authority so effectively exercised by the Swedish national environmental protection board in that country.

5. Adopt the three pronged legislation proposed by Harry Caudill, of Kentucky, with respect to strip mining which would (a) outlaw strip mining wherever steep slopes make restoration impossible, such as in the Appalachian heartland, (b) permit strip mining only where total restoration—you will notice I use the word "restoration" as opposed to "reclamation," Mr. Chairman, because we see a distinct difference—total restoration of the lands can be carried out promptly and effectively, (c) equip the Federal Government with the funds and authority to undertake a massive program to purchase and restore lands already stripped—lands which even now greatly exceed the whole land area of the State of Connecticut in size.

Senator HART. You are speaking now of the land in West Virginia?

Mr. KAUFMAN. No. This would be land in Appalachia mainly, although there is included, I suppose, some acreage in the west.

The availability to citizens of direct relief by way of lawsuits for damages and injunctive help should be included. Lands restored by the Government could be made available to dispossessed mountaineers at low cost.

6. Provide for true public representation on the boards of all the corporate giants.

7. S. 1637, S. 1964, and S. 2064, all sponsored by Senator Lee Metcalf, relating to the composition and operation of government advisory committees, should be enacted into law with all due speed.

8. Make corporate officials and managers personally and criminally liable for violation of any law enacted for the protection of the consuming public, such as are proposed herein, especially those laws designed to protect our health and our common environment. Provision also should be made for revocation of federally issued corporate charters, should that come to pass, upon repeated conviction or for willful violations.

9. Expand the meritorious, proposed National Legal Services Corporation Act to include provisions for publicly funded law firms which would be freely available to all consumers seeking the enforcement of consumer protection statutes or seeking to collect damages for their nonenforcement. A companion bill which would liberalize the internal revenue law to enable private funding of similar legal services also should be enacted. Although our agency serves only low income consumers, my own experiences prompt me to include this recommendation and to assign it a high priority.

And if I may, I would like to insert a 10th and final recommendation. The Appalachian Regional Commission Act should be amended to enable the Appalachian Regional Commission to invest or to lend or to grant money to people in communities to develop energy sources.

The ownership of energy sources by the people such as in public utilities districts should be encouraged. One change in that act would do more good than anything that I know of in terms of rehabilitating the people and permitting them the opportunity for a bootstrap operation, as it were. Give duly organized public utility districts the power of eminent domain. Give them the authority to borrow money from the Commission. The Appalachian Regional Commission has a great deal of funds to feed the highway lobby. Some of this money could be used to purchase generating facilities, electric power generating facilities.

This purposeful exclusion from the act, sponsored by the private government, is without justification. Elimination of this exclusion would do a great deal to set up a true competitive situation, vis-a-vis the investor-owned utilities, east of the Mississippi, especially in the Appalachian region that is very, very badly needed.

There can be little personal freedom, Mr. Chairman, for West Virginians and there can be only a limited future for private enterprise unless the excesses and repressions of corporate giantism are brought under control now by the National Government. I commend you to that task.

Senator HART. Thank you, Mr. Kaufman.

Lest it be forgotten, could I ask that the 67 groups which Mr. Ybarra represents be provided us and be made a part of the record.

Mr. Ybarra. Yes, sir.

Senator HART. Mr. Kaufman, for the record would you describe just a little more the character of activity, the nature of the work, that the Appalachian research and development fund undertaken?

Mr. KAUFMAN. Yes, Mr. Chairman. We are in the nature of a public interest law firm. We are primarily lawyers. We maintain offices in eastern Kentucky and in West Virginia. We attempt in a legal way through the courts, through the legislatures, through duly convened administrative tribunals, to combat the excesses which I have described in my presentation. On behalf of our constituent groups which include groups like the West Virginia Black Lung Association, disabled minors, welfare groups, minority groups, and the like, we oppose onslaughts of the corporate giants. We have our hands full.

Senator HART. I am sure you do.

How is it funded? How are you funded?

Mr. KAUFMAN. That is a good question and I am glad you asked it. We have in the past been funded primarily from the Office of Economic Opportunity. Approximately 60 percent of our funds comes from government sources. About 40 percent of our funds come from private sources such as foundations, individual contributions, and the like.

I say in the past, because our funding from the Government seems to be sort of in a twilight zone right now. Our recent grant expired several months ago. We have been told to believe we can expect a renewal, but after a 3-month delay, we are still waiting for it.

We are having at the moment a very difficult time. I have good reason to believe that it is a result of our activity against many of these interests which I have described. We tend to be quite militant in our defense of people rights.

Senator HART. For what period of time have you formally been in existence?

Mr. KAUFMAN. We actually opened our doors on the 5th of January of 1970. Our charter is dated December 1969, but our funding from the Federal source came into effect only in, I think it was August of 1970, so for the first 8 months we operated out of pocket, as it were.

Senator HART. Mr. Ybarra, the description that you have given us of the Bank of America's loan program in a certain section, a certain corner of the city of San Jose, was that program developed in response to requests that you made of the Bank of America authorities or did they, out of a broader sense of community, undertake it on their own? Do you know?

Mr. YBARRA. We never asked for that, Mr. Chairman. As it was explained to me, this loan is called a president's fund and it is \$100 million across the State of California, and I was told that east San Jose had been now given this opportunity. It was something good for the people there. Barrios were bad because the people did not own the homes. They did not own the property because they rent. And in order to give this—this is what I was told—in order to give you people some pride, that you have property, we are going to make this money available to you so you can obtain these low interest loans.

There is only one thing, though, that you can only buy in that area that we designate, and you have to stay there.

Well, what this means is that—I asked, specifically asked, I said, I do not want to live in the ghetto. I want to get out. There are no lights on the streets, there are no sidewalks. The streets are unpaved. It rains. The streets are flooded. I would rather go to a nice neighborhood that has sidewalks, that have all the nice things, nice schools, and I would rather have a loan to go over there. They said, "Oh, no, no, you cannot, because then we could not consider you poor anymore." So people will go there and they will stay there and the bank is financing the building of a ghetto, you see.

Senator HART. No, that sounds almost word for word like the plan and the result of a plan that financial institutions in the city of Boston undertook, concerning which this subcommittee spent 3 days in hearings in Boston. It is my understanding that this committee will be in California in the next month, perhaps considering the same problem.

You can interpret plans like that as motivated from one of several reasons. I like to think that at worst it is an example of our continuing inability fully to understand the consequences of actions that we take. Clearly it is desirable that loan funds be made available to borrowers who, in the traditional sense, are not as good risks as a lot of other people. Now, maybe even that judgment reflects a built-in bias.

Let us assume here is a group who normally would not qualify for home loans. So a decently motivated group of financiers say, we ought to do something about it, and this is what we will do, create a big pot of money. We will make sure that they are advised of its availability. We will help them with loan applications and we will not require that they meet the normal credit requirements and we will make sure that it is used right in that neighborhood.

This is where the blind spot develops and it is literally underwriting a continuation of the ghetto, whether it is in Massachusetts or California.

Mr. YBARRA. Mr. Chairman, I am not too sure that it is being done unconsciously or by people who are motivated by decent motives be-

cause what is happening in Santa Clara County, you have 15 communities in Santa Clara County and the development that has taken place there, most of the homes have been tract home after tract home after tract home that have been developed in Santa Clara County. Most of them are beyond the means of most poor people or working poor. A man can earn \$6,000 or \$7,000 a year and he cannot qualify to buy a \$26,000, \$28,000, \$30,000 home, all the way up to \$50,000.

There are some communities that have zoning restrictions or have such zoning that it makes building a home impossible for a working poor person or low income person, and throughout the valley, what has developed is a pattern of exclusion from various communities of persons of a low economic circumstance and the only areas that are now available to people are these particular areas that the Bank of America has designated. So, where some communities, especially in the western part of the county, like the city of Los Gatos, city of Monte Sereno, Los Altos Hills, the Mexican people who live there, the poor people lived there at one time have now been run out of town by the economics of the situation and they go to East San Jose and the bank says we will finance you here, in these areas over here where we have our investments, and we will finance you to stay over there and then we can safeguard our own investments over here.

I think it was more to do with selfish interest as opposed to social interests.

Senator HART. Maybe we will have a better basis on which to make a judgment on that after our California hearings.

The reason I made the comment that this reminds me of what we heard in Boston was to suggest that there is a common theme here, whether you speak as a mountaineer from West Virginia or one of Spanish-Mexican derivation from the southwest corner of the State. The concern seems to be the same, an inability to influence decisions that affect intimately the lives and the future of the people.

I want to say something that sounds harsh. This committee and other committees have heard this same expression. "Nobody pays any attention, Government decisions are taken without any reference to our interest," from even the most powerful private citizens in America. They, too, have the feeling that this machine, the Government, functions as the result presumably of somebody's influence, but they believe that they do not influence it, either.

Now, having said that hard thing, let me make the obvious second paragraph remark, that maybe they have a feeling with some justification that their muscle and their judgment is not being fed into our decisions. I can only say to them—but think how much more grievous would be your complaint if you had to borrow money to come to Washington or if you did not have the lobbyist here. Maybe the reason we seem to be more concerned with the problems of those whose problems are relatively slight is because they do have the resources to remind us that they have their problems, too. That does not solve anything but just makes the problem apparently more difficult.

Recurrently, and I suppose most dramatically in the recent past, beginning in the early sixties we did begin to respond to the suggestion that you make, that the people participate in community decisions, OEO, and other activities. Urban renewal began to turn to the communities for participation in decisions.

Now, that was an effort by Government to bring into governmental activity the individual who was affected. That has not worked very well, which is not to say that the idea is not sound and that as experience develops, we will not be able to do better. But you are suggesting a step beyond that, that the Government obligate private organizations to bring in community participation.

What makes you think that if we cannot do it ourselves at the governmental level we can expect that at the private level corporate boards, for example, it would work any better?

Mr. KAUFMAN. Well, I will take a shot at that and probably Mr. Ybarra has some thoughts on it.

First of all, Senator Hart, I do not entirely agree with you that it has not worked in the poverty program. It has not worked as well as we would like it to work, but I have served on boards as you have, I am sure, before this policy was initiated and I have served on some since it was initiated and I find the sheer presence of poor people, let us say, on certain policymaking boards has a salutary effect on the deliberations of that group.

I think the most insidious thing is the thought that if people cannot manage their own lives, how do you expect them to run a bank or how do you expect them to manage or even suggest intelligently how a big complex corporation should function?

My response, of course, is that these people may be poor but they are not stupid. They can act from a sense of self-interest. It is not a regulatory mechanism, really. It is simply putting people on these boards who have a very definite stake in how these companies operate. They want this company to prosper but they also want it to exhibit certain types of community concerns, public concerns of which up until now there has been little evidence. There has been a lot of publicity emanating from the corporate boards but no real evidences of social concern.

I think it could work. There would be a problem of selecting these consumer representatives. I can see that. But I am confident that the problem can be overcome, and that this would be a very helpful mechanism.

Senator HART. And your experience leads you to believe that the failures that we read about in community action poverty programs should not be the basis for concluding that the idea is wrong or that it has not been without success.

Mr. KAUFMAN. No. It has been a very fruitful period of, let us say, indoctrination, at least. Here, for the first time in our history, we have turned to people who are unaccustomed to serving in these roles. I think it has been a period of learning. There have been some mistakes made, mistakes of judgment, I think, which are inevitable but I do believe it has been a fruitful period and I think in most cases it has been successful.

Our largest business combines make some serious mistakes in judgment. We have noticed that in respect to the Penn Central Railroad and the Lockheed Corp. Faulty judgment is not confined to poor people who make some mistakes in the poverty program. We have great examples of that up and down the line.

I am not ready to condemn the presence of low-income consumers on the boards of community action programs. I think it has been a

fruitful move and I think the Government should be commended for initiating this program.

Senator HART. Good. Not only are failures not the monopoly of poor people, but even embezzlement is not a monopoly of poor people.

Mr. YBARRA. I would answer your statement, Mr. Chairman, by saying that the citizen participation in the various poverty programs, for example, and the various other Government programs I think has given people in the communities affected by these programs a sense of participation in structures that are affecting their lives, and it has been successful. It may not have worked or may not be working as some people would like to see it work, but it is working. It is giving people a chance to voice their views, to state their opinions, and so forth, people who previous to that had not been given that opportunity.

But I think we will admit that the power to determine the communities' future does not lie with who is going to be participating in the decisionmaking processes of the local war on poverty program or on the Job Corps or on the manpower project of some sort, or whatever. It lies with who is directing the economic life of the community. Most often it is the large corporations and the huge banks that receive millions and millions of the Federal dollars.

Lockheed in our community, the largest employer, 16,000-19,000 workers in Lockheed, and it has in the past been rather influential, I would say, in guiding the political processes of Santa Clara County, one of the structures, one of the units that is involved politically. The other is the banks, the local banks. They are very politically minded and they are very active in financial contributions to local politicians. These are the structures that guide the economic life of the community and these are the structures that are the powerful structures in the community, and my suggestion, and I think this is what Mr. Kaufman is also suggesting, is that now is the time to start thinking of making requirements upon the large corporations that make decisions that affect the total life of the community, make requirements that would have the citizens of that community that are affected by the decisions of this corporation—that they be participating also.

Lockheed came to our county. Western Electric came to our county. General Electric came to our county. International Business Machines came to our county. They brought thousands of people into our area.

The result of this was a demand for homes. Large corporate developers like Kaufman and Broad, Foremost, McKesson, American Standard, big nationwide home builders, come to our county to build homes to meet this demand, and in the whole process, a large number of people in the community that were living there, participating in building the economy of the valley, all of a sudden were displaced as useless people. You were useful only when this economy in this valley was an agricultural economy, but now that we are a highly sophisticated urban area, with the electronics industry here, thank you very much, but you are useless now. You may go. Leave.

These corporations came and they changed the entire economics of the area. They affected the lives of thousands of people, and whose responsibility is it? They don't assume any responsibility. They are totally—are they operating under a rule of the jungle, that they can do as they wish, affect the lives of people as they wish, and nobody to stand up and say you are going to assume some responsibility and you

are going to employ the people whom you displaced, the jobs that you took away as a result of your coming here? You are going to have to provide them. You are going to have to allow the people that are affected by your actions to participate in the decisions that you make. And I see the same thing in the area that Mr. Washington comes from, and Mr. Miller comes from, where the strip miners come and destroy the land, strip the land, devastate it. They don't provide for the people. They leave and the people are left, you know, jobless, and their lands are devastated.

Well, the same thing has happened to us and this has been done by irresponsible conglomerates, large corporate structures, that have come to our valley, and I am saying that now is the time, it has got to be done. The banks have got to be required to be responsive. If the Federal Government was not there, the banks would go under, especially in these last 2 years. So if the banks are there because the Federal Government is there, then the Federal Government does have a responsibility to require the banks—the decisions that they make affect all of the community. Therefore the makeup of the community must be reflected in the decisionmaking processes of the bank.

Senator HART. Now, among the many points you suggest was one that is beginning to get some general discussion. Would it be sound policy to require that employment practices by at least the largest of the employers reflect a percentage of the makeup of the community out of which the hiring occurs? A percentage of blacks, a percentage of women, a percentage of Mexican-Americans?

That suggestion always is aimed, and your comments have been aimed at the biggest companies. I don't know anything about union affairs in West Virginia, but some of the things I have read about your mineworkers are not edifying. And if we talk about the obligation to have big business hire a percentage prescription, it would seem this should be expected of trade unions, shouldn't it?

Mr. Miller, you are a man who has given effective leadership to mineworkers in West Virginia who have been afflicted with what we know as black lung, something which those of us who don't come from West Virginia have been educated on by Congressman Hechler here. How do you react to it? I have said perhaps enough to stimulate some reaction from you and from Mr. Washington.

Mr. MILLER. I think, Mr. Chairman, the unions have gotten to the point where they are as irresponsible as the corporations. They don't respond to the people's needs either. I can say this about the union I belong to. The leadership has not responded, and because of corporate interests too, among the industries they deal with, it has been a difficult task to clean up our own organization.

Nevertheless, we have generated much interest in this respect and we think the ultimate goal will be reached before too long.

Senator HART. Mr. Washington, would you like to comment?

Mr. WASHINGTON. Mr. Chairman, I think when you speak of big business, I would say the unions are big business and they have their faults, and going back to what Mr. Ybarra had to say, I have seen communities where—because the people, you know, are not being represented on the board of the corporation—I have seen communities where there were big operations like a mine that were working in a community that was employing plenty of people, yet the community was slowly

dying, with all this employment there, because they weren't employing the local people.

There is a reason for local people because when you employ local people, after the work shift they get together and generally talk about what is wrong and how to make it better for themselves, and as the result, there is union activity, some kind of activity to make it better for themselves, rather than for the big corporations.

They know this. Besides being absentee ownership, they will hire employees from out of State, out of the county, employees who will come 30, 40, 50, 60 miles to work. They are interested in going home after work is over. They don't get interested in union activities.

I can remember when the operations used to build communities, used to build settlement houses, or rent them. They don't do that any more. They know if a man wants to work he will get there some way. We will go out to a mine and make a work operation. They make sure they don't get too many people from the local community because they know they will get together and make arrangements for themselves.

Senator HRUSKA. May I ask a question at that point? Who makes sure the people don't come from any one location?

Mr. WASHINGTON. The people who do the employing. The people whose job it is to employ these people. And, although you have your own employment, you know, employment offices, you know, in the different towns and locations, really it is almost a joke because the people are handpicked who work there.

Senator HRUSKA. Of course, we have a situation out in the Middle West where I come from that is somewhat similar to that of the people in your case. Because they are divided and they are distributed over big distances, maybe 50 miles across, they can't get together and make their power felt, can they, they can't organize. We have a similar situation out in the plains of our western States, but it is not because the employers don't employ people that come from the community. It is because there isn't any business there. And so, we find people there without anything to do. They would welcome some of your corporations. They would like them. Ship them out to us. We would like to see them.

We have got a campaign there with the Nebraska Resources Commission, for example, that is inviting people to come there so that people can come in and get employed. They have no employment at all. And they are poor people. They are as poor as your people or the West Virginia people.

Most of the poverty in this Nation is not to be found in metropolitan areas. You add up the poor people with small incomes, and they come from rural areas, and West Virginia has its share, and I imagine California does too. But I wonder if the people who are employed also have a hand in saying where they are going to live. Suppose they started in the immediate community of the place of employment. Would they continue to live there or would they look around for a place where they had maybe better schools or a little better neighborhood? Maybe they would like to live someplace else.

Do they have some part in making the decision as to where they want to live?

Mr. WASHINGTON. I think the problem is a lot of these people were born there. This is their home. I think it is a kind of ironic situation

that the industry is there, the employment is there, and yet still the people who live there, who are born there, and who raise their children there——

Senator HRUSKA. And they want to stay there.

Mr. WASHINGTON. They want to stay there and it is kind of ironic that they can get no employment there when the people who come from out of State, out of town, work there.

I think these corporations have an obligation as much as any situation to help develop their community. I think it should be required of them.

Senator HRUSKA. I think that is right.

Mr. YBARRA. Senator, you are assuming that if these corporations come to your area, that they are going to employ the people in your area. That could possibly be the same assumption that we had, that these corporations could come to our community and that the people that would benefit would be the people from the community. But that is not what happened in Santa Clara County and I assure you that before they do go to your area, you should place guarantees, written agreements, that if they come to your area they should sign an agreement, a legal document, that says they will hire the people in Nebraska, not bring in people from outside and displace the people from Nebraska.

That is what happened in Santa Clara County.

Senator HRUSKA. We have instances where we didn't need legal documents and many of the corporations that have come to Nebraska and many of the companies that have come out there—and I can cite names—found it to their economic interest to hire people from the community because they don't have to furnish homes. They don't have to furnish schools. They don't have to do a lot of things.

If they brought their own people in, and the people that you talk about, many of them wouldn't want to move, you see. They want to stay in their own area.

Beck Co. in Dickinson, who is a large furnisher of syringes, medical equipment, precision equipment, came to Nebraska 20, 22 years ago. I know. I incorporated the company. They came from New Jersey. They have such a monopoly by sheer momentum on that type of medical supply that the Defense Department told them, you can't stay in one place. You have to get an output place somewhere else. And they started out with about 500 employees. Do you know how many came from New Jersey? Two. Two of the people came from New Jersey. And then there was a core there, maybe 10 or 12 that set out in a training program and they went back to New Jersey. Two came from New Jersey.

There was another one. The Wickes Co.

Still another one. The Lionel—the people that make these little trains—they went into the electronics business and they went into Broken Bow and Alliance. They hired local people. It was to their economic interests to do so.

I don't know what happens in your community, but I would imagine they would hire people who are capable to do the work or who can be trained to do the work, and if they are not doing so, they are not fulfilling their responsibility.

Mr. WASHINGTON. I would like to say obviously this is not happening. To give you a clear example, when the big corporations came to the community where I live, everybody was happy because we knew that somebody was coming who would add money, who was able to employ plenty of people. When they came into this community in West Virginia and opened up this big operation, they caused about four single mine owners to close up. They did not employ those former miners from these other places. Through the big machinery and other things, they did it with about half the men, and then most of that majority came from—they transferred from somewhere else or were brought in from somewhere else.

This is different from most people. Mining is the industry there. Everything is built around coal. They make it impossible to do anything else. That is what you do, you mine coal. All of these people sitting around unemployed and laying around and with diseases that are related to mines, and in certain years, they may get a pin and after 40 or 50 years, thank you for your services, and you go off somewhere and die. That is just about what it amounted to. They didn't feel an obligation to hire, and it is a known fact that they don't hire for the simple reason that if they don't hire local people, they have less trouble. They have operations, continuously without labor troubles. They bring their work force in from just far enough away that they don't get together, and that is what it is.

They buy up this land, buy up all the coal land, keep it in reserve because they don't want to work it. They won't lease it. They won't let anybody develop this land, they won't let other corporations, other small business start, and while this is going on, the place is just dying and they don't care because they have the coal and they have the land.

Mr. KAUFMAN. If I might, Senator Hruska, just add this point. The character of the industry is changing. Strip mining has made a tremendous difference in the habits of these companies. Once when a vein of coal was exposed, the company might spend 20 or 30 years or more working it through deep mining methods. The population, the working population, was pretty stable as was the community, and so forth.

Now that strip mining is taking an increasingly large share of the tonnage, the labor force is much more transitory. The men will be brought in. They are skilled machinists, and big equipment operators as opposed to underground miners. They are brought in and in a relatively short time, they level a mountain. They completely strip an area, and then they move on.

The people who live at the site of the operation are given little consideration. These giant companies have operations all over the country. For example, Consolidation Coal, they move these men around and for every strip miner who comes in, the jobs of anywhere from three to six deep miners are lost. The tonnage—the profits, of course, are increasing by leaps and bounds, but the consideration given to our people in West Virginia, who once served these companies well, is virtually nil. The environmental havoc being caused in Appalachia by strippers is something which you should see. I urge you, if you have a few hours, that you take a helicopter flight. It

isn't far from here. It would be a real eye opener for you to see what is happening to our mountains and mines in Appalachia.

Senator HUTSKA. Well, you speak of a phenomenon, the field of coal, which is a relatively small problem numerically, important to all of the people who are there.

Let me give you a bigger problem and it is one in which the Nation is engaged in trying to find a solution.

Not too many years ago there were 15 million people on farms. Now there are about 6 million. And where did they go? They couldn't stay where they were. They were displaced by pretty much the same proposition that you speak of.

First of all, the big machines in the wheat fields—and there are fields there where you can't see from one end to the other—they were displaced on them. No longer 600 acre farms or 750 acres. Now they are 1,000. They were replaced by irrigation districts. Everybody can't buy an irrigated farm. And they were displaced also by large cattle grazing operations. You can't graze cattle on even 1,000 acres. You need much more than that. And many areas of the country, all the way from the Mississippi west, to the Rocky Mountains, many of them were driven out. Fifteen million down to about six. And it is going to go lower. So it is a big problem.

It is not a new problem. And our job here is to find out what to do about it, and we are so glad for this is an opportunity for you to focus in on a particular problem and tell us what the elements are. But I would like to suggest something.

You say that we ought to have the Federal Government tell the corporations by written contract what to do. Well, let us not get in such a big hurry to invite a new master to take care of our destinies. Other countries have tried it. Big government is going to do it.

What is going to happen?

What is going to happen is that those people who have an economic stake in things are going to get into big government and you are just going to have a change in personnel. This is felt by many people in our regulatory agencies.

Seventy-five years ago, we had, for example—and I don't single it out—bad abuse by railroad corporations of people who shipped merchandise. And it rose in our country again because we had to ship big shipments of corn and wheat and cattle and hogs and so forth. Those big corporations took advantage of people, so they said, we are going to fix it. We are going to create an Interstate Commerce Commission, and they are going to keep them fair and they are going to be required to do certain things.

Now, 75 years later, the cry is, let us abolish the Interstate Commerce Commission. They have been taken over by representatives of the transportation interests, and it is all one kit and caboodle. That is the popular cry. I wouldn't want to say that it is totally justified, but let us not be too much in a hurry to give other people a chance to put a different set of handcuffs on us. Instead of the coal company, it will be a commission governing the coal company or the bank, and that commission will then put the handcuffs on your wrists. Let us not be in too big a hurry.

That is one of the things that is bothering us, just a shift of power. If you are going to put power in the hands of someone, you said,

put the poor people in charge. Item No. 1, are they capable of doing it? Do they know how to run a railroad or a coal mine?

Item No. 2, how long will it be if they do that before part of the poor people who will manage that bank or that coal mine, they will become the bank and the coal mine and you will have a repetition of what you have right now.

So, you see, sitting in the position where we are, and we see these things come in many, many industries, and we have pared them down in depth, everything from hearing aids and burial expenses to steel companies and car manufacturers, everything, I don't think there is anything that we have left out. We are experts in everything. I say that facetiously. They bring all their evidence before us, and so forth, and we are looking for solutions.

What is the solution that will be workable and livable and acceptable, not for today to correct our problems, but 25 years from now, or even 5 years from now?

So that is why I would like to ask what specifically can we do about the coal companies? Must we tell them you must hire nobody except somebody 5 miles away from your mines? Tell us what specifically can we do?

Mr. WASHINGTON. First, I think they are too large. I think they have to be broken up, and I also think that in regard to at least, saying the Government will be telling you what to do, sooner or later if these corporations keep growing and growing, they are going to get bigger, and then even the Government can't do anything about it.

It seems to me they are far too large now, and if they are, then what is it going to be when they say we are not going to hear you, and they start ruling? I can see the only recourse people are going to have, people get desperate and get violent, and then they will act, and then it is too late and during the violence, when the violence is happening, what will it do to the country? Where will we wind up?

So I am thinking what should be done is they should be broken up into smaller corporations and they shouldn't be allowed—if I am going to operate a coal mine, say, then they should have to lease the land or lease the coal and—they shouldn't own the railroad, they shouldn't own the coal. They shouldn't have the right to say this will not be done in this State.

Now, these operations in one county, they are so powerful that they say whether it will be developed or not. They own the lease. They won't lease it, won't sell it, and they control the legislatures, enough that they pay very little taxes on it. They can own several acres, or several hundred acres of land, and don't have any houses, and just hold it in reserve and pay less taxes on it than one would pay on a homestead. I think it is ridiculous. And they can make all kinds of exorbitant profits out of small wages. They don't have to be held accountable for them.

I think the size of them, the controls they have over everything that is related to coal—they own the shippers, the coal, the land, and the factories—I think somewhere along that line this chain should be broken. They should be dependent on somebody else.

Senator HRUSKA. You think if they had instead of a \$100 million, if they had ten \$10 million companies, things would be better?

Mr. WASHINGTON. What I am saying is you have to have coal and you have to use it. But they have got it so wrapped up from the mining while it is lying there, they have got it even in reserve, until it is finally brought to the customer. The same people own this all the way. They can set the prices, they can say what can happen or not. They freeze out competition or buy it up. It is like saying we have free enterprise and everybody has an equal chance and one man putting up \$10,000 against somebody with \$10 million. That is ridiculous. There is nothing free there.

Senator HRUSKA. Well, I don't know much about coal mines because we don't have any in Nebraska. We have a few in Kansas and Missouri.

Mr. WASHINGTON. I have a feeling that all of these big corporations work basically the same way.

Senator HRUSKA. But this just comes to my mind. Somewhere along the line I imagine there is a reason why all this comes into a few number of ownerships, and I imagine economics has something to do with this. But I don't know that we would like to get in the food business, for example, back to the corner grocery store. There are many people who say let us break up the monopolies of the foodstore. We went into it in the National Commission on Food Marketing and it was felt, well, now, if you have a lot of stores, then you will hire people in the neighborhood. You are going to have credit and this and that and the other thing.

Well, among other things, the operation was so inefficient that the chainstores came in and they have not a monopoly but there is a concentrated ownership and our job is to find out should we break them up or shouldn't we? Then we go to the people and we find out they are spending only 16 cents out of their wage earner's dollar for food. In England it is 50. In some countries, it is 80 percent of their wages that goes to food, and then we wonder now, are we going to break it up and have corner grocery stores again and have food take 25 to 35 to 40 percent of our wage earner's dollars in order to have it broken up?

That is oversimplifying the problem, but somewhere along the line it is true in farming—I know it is true in farming that you can't have it broken up. It just doesn't work. A farmer can't put \$75,000 to \$100,000 in machinery and farm 800 acres of land. He can't do it. He can't do it. And the same way with grazing, and so forth.

Now, I don't know much about coal mining. If there were some way of bringing it up and hiring local people and running it the way you want it to run, we ought to look into it.

Mr. WASHINGTON. I think it is the way we rate progress. I personally don't think making a decision is necessarily progress. I think the only way to compute progress is what the average citizen or family has and how they are getting along. There may be a volume of progress as we compute progress today, but it may only happen between two or three corporations, and the average citizen doesn't know anything about it. You tell him it is progress and he doesn't know. I say it really is not unless the average citizen participates in the progress or is better off because of it.

Senator HRUSKA. Is there anybody here that would like to say let's do away with those great big machines that mine the coal, that reach in and grab the coal and put it on the car? Let's do away with that

and do away with those machines? Give the man a shovel and a cart and let him load the cart? Is there anybody here who would like to say make the change back to what we had? When we do that, the price of coal is going to be so high that nobody is going to buy your coal. Nobody is going to buy your coal. And then what do you do with it once you have got it mined?

Mr. WASHINGTON. When you think of the upkeep of the machinery and the prices they pay to keep these things going, it is continually going up and up anyway. I think if more people are better off, things will tend to relegate themselves.

Senator HRUSKA. Mr. Kaufman, you have gone into this a lot. I know you have. We are talking about the overall economics. I know you have given a lot of thought to it.

Mr. KAUFMAN. Mr. Miller had a thought, if I may yield to him.

Mr. MILLER. You were speaking with regard to the continuous mining machinery. I think the social cost we have incurred by allowing them to use them is not justified. They didn't leave anything but physical wrecks of the miners who mine the coal. We were getting on very well without it. Sure, less profit for the coal operator, but I don't find in the last 10 to 15 years that they have suffered any loss of profits. Their profits are very high.

Mr. KAUFMAN. Senator, if I may add this point. The price of coal may be cheaper by virtue of the use of these giant machines, but the cost to the community is no less. What they don't pay in coal or power prices, they pay in trying to clean up the mess and the human debris which is left by virtue of the use of these monsters.

Now, you put the question to us, Would we have these machines scuttled and done away with. I think we would, but this is a close question. I don't think we can dismiss it out of hand. We need to consider very carefully.

The way you put the question, of course, it is difficult to respond. These machines and the methods, the modern, progressive methods, have done tremendous harm to our total society in America. Just as has happened on the farm, as you put it, it has happened in the coal mines. We don't have any ready answers, but the answers may not be as apparent as your question would indicate.

You indicated that we may change masters and wind up in worse condition. That point is well taken. We are keenly aware of it.

For example, there is TVA. Appalachians once looked upon this project as an extreme benefaction and still, of course, it bestows many benefits. However, their mining practices, their encouragement of stripping, and their lack of good conservation practices have caused the people of our region to look upon TVA with great mistrust and concern.

What I think Mr. Ybarra and we from West Virginia are saying is not that the poor people or people who lack experience take over these big companies. There are plenty of managers available and plenty of people with technical experience who can run things. We are simply asking for the right to participate, to have some input, if you will, into decisions which are made, so that perhaps some of these decisions can be tempered with consideration for the community and the social problems of the community. That is all.

This is not happening today. If this were done, it would eliminate the need for many of the kinds of regulatory mechanisms which Congress has found it necessary to establish. Things would tend to work themselves out on an internal basis.

I don't think you would have to say, for example, to a corporation, you shall employ 20 percent blacks, or you shall employ 10 percent of Mexican-Americans. If you have blacks and Mexican-Americans sitting on boards of these companies, those questions will take care of themselves, and it would have a salutary and humanizing effect on the operation of these companies.

It may make them somewhat less profitable in terms of the immediate profit on the product itself, but in the long run, in terms of the total cost to the community and the corporation. I think these costs will be greatly modified, and the future of the enterprise and of the Nation itself will be greatly enhanced.

Senator HRUSKA. Mr. Chairman, the Senator from South Carolina is here. Did he leave? I don't want to monopolize the time. I have taken enough already.

These arguments about machinery, you see, we are 250 years too late for that. The industrial revolution in England and Europe took care of those arguments a long time ago, and any more, you don't have coal shovellers in a lot of these mines. You don't have cowboys for feeding cows. You put up these silos with feed grains and additives and everything. They program the thing and push a button. One man can feed anywhere between 12,000 and 15,000 and you have got them in California and we have got them in Nebraska.

I think you would find it awfully hard to tell that man, no, don't do that. Hire yourself 50 or 75 men if you can get them, and in our country we cannot get that labor. It wouldn't work. I don't know that much about the coal business. I doubt very much that you would get many companies to go back to a different method than mechanization.

There is a price. There is a price, but those arguments, you see, those go way back—there is the computer business.

I recall the story—perhaps all of us do—about the man who in an automobile factory, Mr. Hart, took one of the representatives of a labor union down through the factory and he said, see that big machine? It is doing the work of 124 men, or whatever the number was. And the union representative turned to the boss of the factory, and he said, how many automobiles does that machine buy?

You don't have to put it in terms of automobiles. You can put it in terms of groceries or shoes or houses or anything else. But those items, you see, involve philosophical and fundamental problems that we just can't offhand say we want to solve unemployment in West Virginia and therefore, because there are other areas where new coal mines will be discovered and they won't have any communities there, and they will put machines in, and they will be able to sell for less than West Virginia, and then you are not going to sell any coal.

As long as we have the profit system and the incentive system, we have got problems. And if we don't have the incentive system and we go to the system Russia has, we are going to have bigger problems, much bigger problems.

MR. YBARRA. Mr. Chairman, going back to the question of having local people on the corporate boards, it was implied by the Senator from Nebraska that we might be advocating signing of contracts with each company, and so forth.

All we are saying, at least from my point of view, and I think Mr. Kaufman will agree, that we have got to make the corporations, the large corporations that dictate the economic life of the community, we have got to make them more responsible for their own actions and right now they are not totally responsible for their own actions.

They come to a community, they disrupt the economic life of the community, they disrupt the political life of the community, and they create problems in the community, and they are not responsible for them. They are not made to be responsible for them. That is what I am trying to say. They are not made to be responsible.

The local government then has to assume the responsibility of solving these social problems, in assuming the social costs that occur as a result of the irresponsibility of the large corporations.

When I cited the examples in Santa Clara County, I am not saying this is only happening in Santa Clara County. It is happening in other communities, across the State of California, and it is going to happen in certain communities. Certainly it is happening in Appalachia, and it is going to happen in other communities in the Southwest.

Already, for example, in the valley just below us, 50,000 acres have been sold for urban development and one of the largest corporations, I believe it is Georgia Pacific or Castle & Cook—one of these large developers has bought this property for the purpose of developing it and this is going to continue to happen and continue to happen, and what about the people that are displaced? What about the people that live there?

What responsibilities do these corporations have to the people that live in the community?

All I am saying is that one way to make them more responsible is for the Federal Government to make more requirements on these corporations, to make the requirements that they must assume some responsibility and not let them be judged by their own rules. That is all I am saying.

Senator HRTSKA. Well, Mr. Witness, what about the people that are going to live in those subdivisions that are going to be built? I can hear their corporation representative saying right now, we are benefactors of the human race. We are going to build homes for people who need homes.

Now, they are part of the social problem of America, too. We are going to build homes that are needed for the expanding population, and unless we build homes, they won't have any place to lay their heads at night nor to shelter them when the rains come. We are benefactors of the human race. And if they say we are not going to develop these 50,000 to help the people there, what about the people that are in the barrios of other communities?

MR. YBARRA. That would be fine, Mr. Senator, except that as long as they don't do it at the expense of others, as long as progress does not take place at the expense of others that are defenseless, that because they are poor or because of their economic circumstances they are unable to defend their own interests. As long as progress doesn't

take place at their expense, fine. But when you build 50,000 homes for a certain economic class of people that can afford to live in those homes and the rest can find themselves homeless and can make their own way as best they can, then that is not progress, and something has to be done, and that is what is happening in Santa Clara County. Home after home after home has been developed beyond the reach of thousands of people that live in that community.

Senator HRUSKA. That is a problem.

Mr. YBARRA. And as a result, thousands of people are homeless. The rest are lining up in front of the housing authority of the county, the housing authority of the city. There are 3,000 waiting for homes from the housing authority of the city of San Jose, and I don't know how many thousands in the county. So you have housing that has been meant for a certain economy class at the expense of others, and I say that is wrong.

Senator HART. I think Mr. Ybarra has sort of defined what we mean by social costs. It is a cost factor that isn't taken into account in schools of business administration when they explain to you how to run a company. You compute certain costs and then you project your market and if the return is there, then that is a good decision. And our system doesn't have to be somebody else's form of government. Our system should be able to insure that when there is a disparity between the private cost and the social cost—the public cost—that there is a forced means to make a balance.

Social cost is a harmful effect upon other people that results from one man's production. That is what social cost is. That is what you are talking about, and as Senator Hruska says, it is enormous. It is difficult to figure out how you have your progress without being driven. I just have a hunch that if these gentlemen were sitting in the boardrooms of some of the largest of our corporations, that there would be benefit to the management and the stockholders of those companies and the Nation.

I think Mr. Kaufman said it isn't so much that we need new regulatory agencies or new laws. Somehow or other the point of view that has been so eloquently expressed here—but which reflects a background that has long since been lost in the boardroom—if it got into the boardroom, you would have corporate decisions that reflect more fully an awareness of the social costs that you are talking about. You would agree with that?

Senator HRUSKA. Yes. I agree with that. I think in some measure many companies are doing that with their public relations departments.

I know out our way, for example, we have the Northwest Bell Telephone Co. Their public relations department is one of the finest. I don't single it out as being outstanding but I think it is typical.

Senator HART. I want people like these here to be picked for the outside interests.

Senator HRUSKA. But the job of the public relations departments of companies is to contact and work with people like this. Now, the same is true of labor unions, and we all know the problem there. There is the same problem of concentration of authority and monopolistic problems. Let's not kid ourselves.

They are given monopoly by law. They say there is nothing in the antitrust law that applies to us.

I wouldn't want any of my remarks here to be construed as being an advocate of the viewpoint of the big corporations. We have our problems with them and we have an honest history of 100 years trying to fight them because you talk about the coal mines taking the coal out of West Virginia and taking the profits to Wall Street, ever since our formation as a State in 1867 we have been fighting. The lenders will come there, the railroads will come there, the insurance companies will come there, they all come there and they make their profits and they take them out. That is one of our problems, and we have been losing millions of population. We have been losing representation in Congress because our population has fled to the cities which adds to the problem of the cities. And here HUD says we are not going to build any more public housing in the ghettos of the big cities. We are going to go out. And when they go out, they disturb people like you.

So you see it is a big problem. And we are concerned with it.

One of our big programs—it has not gotten off to too howling a success—is the rural development. How do you do it? How do you do it? We are searching and we are trying.

Mr. KAUFMAN. If I may just make one final remark. You have suggested that we can't turn around the clock, that the industrial revolution happened several hundred years ago and that the die is cast. I am more optimistic. I don't think we have lost the battle. Although we may not be able to reverse history, the time has come when we must take one step back and try to put this whole scene in some kind of perspective.

I am confident that this Congress is up to the task. I have made some specific recommendations that I hope you will have an opportunity to look at, nothing tremendous, but they are suggestions that you might want to consider.

I know, for example, in our agency we are essentially public interest lawyers. We harass the big corporations sometimes and they are very impatient with us because they want to get on with the show and they want to make lots of money. In our own small way, we are requiring them to be responsive to some of the concerns that we are voicing here today. We are also requiring or attempting to require the Government to do likewise. As you point out, government can oftentimes be more tyrannical and more difficult to deal with than the big corporations, and so we also seek to call government to account.

Take the interstate highway program. There are tremendous problems, human problems, coming up with respect to the highway program. I am reminded of this by Mr. Ybarra's last comment. When the interstate highway comes through, usually in a ghetto area or low-income residential area, people are displaced. Some are renters, some are small landowners. But this is progress, of course, in terms of highway construction. But in terms of people, lives are disrupted and tragically so in many cases.

Only recently has the Congress, prompted by the courts, turned their attention to providing housing, even on a temporary basis, decent housing for these dispossessed folks until such time as they

can be relocated. This is a very, very difficult problem. Appalachian Research and Defense Fund has had to go to court, as a matter of fact, as recently as this week to try to humanize the interstate highway program; not that we want to stop this kind of progress, but it is necessary to slow it down a bit in the interests of all concerned.

I would leave you with this thought. We are not trying to reverse history. History has a way of moving on despite all of our efforts. But we feel the time has come to step back, to take inventory, and to make badly needed changes, lest we stew in our own juice—victims of history, corporate giantism, and social greed.

MR. YBARRA. Mr. Chairman, may I make some suggestions as I would see it from my vantage point in terms of legislative changes?

I would suggest the following. One that legislation be passed to establish regulations requiring each financial institution, both the banks and the savings and loan associations to record all ethnic and economic data on all loan applications, percentages of where, how many loans are being let out to different areas, and so forth.

Two, to assure that all banks with non-interest-bearing time deposits establish a loan program which makes loans available to low-income and minority people at a lower rate so that they can obtain these loans to move anywhere that they wish.

Three, require that banks with non-interest-bearing time deposits and other Federal deposits establish boards of directors with substantial and meaningful citizen participation and to make data of the amounts and locations of Federal deposits available to the public upon request.

Four, all corporate bodies, private or otherwise, with substantial public and government support—for example, Lockheed—to be chartered by the Federal Government and to require substantial and meaningful citizen participation of these corporate bodies.

That is what I would see as some change that would come about that would affect us in our community.

Senator HARR. Both you and Mr. Kaufman have given us some specifics. I think all of us who have heard you this morning are better for it.

The reach of the problem certainly has been suggested and there are some specific tools that you indicated you think we could assemble that would reduce at least in part this enormous problem.

As I indicated at the very outset, it is not limited to the poor and the black and the Mexican-American. It is an enormous problem in the minds of almost all Americans. I think, that the machine runs and nobody seems to be able to turn it in any direction at all. Meaningful citizen representation in private economic power centers may help there, but as somebody who is hired by the public directly, I have to remind myself that that public thinks that I am not getting the machine moving responsibly either. Just getting meaningful citizen representation in private power centers may not prove as worthwhile as this morning would make it sound if public power operation is still thought not to be subject to very much citizen input.

When we scheduled today's hearing, I was not mindful that the President of the United States would present to the Congress at 12:30 p.m. today his state of the Union message. In fairness to the committee and to Professor Shepherd and Mr. Barmash, and Miss Joan

Van Horn, who are our second group of witnesses, I think it would be advisable that we recess—since we will have to leave here within 15 minutes to get over to the House side—that we recess these hearings until 2 o'clock.

Gentlemen, we thank you very much.

(Whereupon the subcommittee recessed at 11:45 a.m., to reconvene at 2 p.m. this same day.)

AFTERNOON SESSION

Senator HART. The subcommittee will be in order.

As I indicated just before the recess, we resume this afternoon to hear three persons who will respond to this general question that we have raised.

Let us hear first from Miss Joan Van Horn.

As I understand it, Miss Van Horn, you have worked in data processing for both Government and private business, and you have organized and headed your own computer firm, VIP System Corp.; but not long ago, you sold the computer business and serve now as a consultant; am I correct?

STATEMENT OF MISS JOAN VAN HORN, PRESIDENT, VIP SYSTEMS CORP., KENSINGTON, MD.

Miss VAN HORN. Correct.

Thank you very much for the invitation to make a presentation to this subcommittee. I have summarized my statement to accommodate the time constraints today, and to provide ready reference to my full statement, which I trust you received on Tuesday.

I would, however, like to have the whole statement presented for the record.

Senator HART. It will be received and printed as though given.

Miss VAN HORN. Fine. Thank you.

There is a growing concern throughout the Nation that the system is no longer working for the people, and that big Government solutions are failing to solve many of our pressing problems, one of which is our economic malaise.

As a specialist in data processing, I grow concerned with the erroneous notion that our new technology, and especially our computers, make a controlled economy now possible whereas it was not before. This is not true. Computers are neither our villains nor our savior, but, like atomic energy, they can be used to serve or destroy the society that produced them.

Contrary to a myth that has existed in Washington for many years, the typical business executive, even if he has no special interests to promote, is a very poor adviser to Government because of his extremely narrow vision of the world and his autocratic management patterns. Government is not a business, and attempts to run it as such will result in new forms of totalitarianism, in the name of efficiency. Democracy is inefficient; so is human progress. But the development of man cannot be regulated on a 5-year plan. Only a free economy can insure our personal freedom.

The Congress must grapple with the problems of economic concentration now, to review our economy and the people's faith in our institutions. Arguments for weakening the antitrust laws in the name of international trade should be dismissed—and I would like to have the letter to the New York Times also included.

Senator HART. It will be printed at this point in the record.
(The clipping follows:)

[From the New York Times, Jan. 18, 1972]

TO CURB CORPORATE POWER

To the Editor:

Your criticism of the Administration's Peterson Report was well founded. However, what you overlooked was that the whole Nixon New Economic Policy and Peterson's Council of International Economic Policy are the result of the Presidential Commission on International Trade and Investment Policy, whose July report was embargoed until last Sept. 13.

The chairman of this commission was Albert Williams, a director of I.B.M. The Williams report is heavily laced with recommendations that our antitrust laws be reviewed and weakened, purportedly to facilitate joint marketing agreements and encourage foreign investments here. It also recommends tight controls on the domestic economy, generous tax incentives for business, revisions in the exchange rates and removal of capital transfer restrictions.

I.B.M.'s influence becomes particularly ironic when you recall that the corporate executive leading the cheering section for the freeze, Phase Two and economic prospects for 1972 is T. Vincent Learson, chairman of I.B.M.

Considering that I.B.M. is in litigation with the Justice Department concerning its own concentration of economic power, it is incredible that its executives should be invited into Government to make recommendations on our antitrust laws to further their multinational goals.

The Williams report, and the subsequent Peterson report which parrots it, should be viewed with greatest suspicion. There is strong reason to believe that the Nixon Administration has been persuaded that the antitrust laws need "modernizing" (weakening), and legislation will be submitted to the Congress to do so.

Meanwhile, Democratic Representative Emanuel Celler has already submitted an antitrust law revision bill to put the top 200 manufacturing and top 100 financial organizations under the control of a Cabinet-level administrator. It would repeal Section 2 of the Sherman Act and eliminate all private monopoly suits against these 300 corporations (I.B.M. included), on the assumption that the public interest would be protected by the administrator alone.

The fallacy of regulatory solutions should be obvious by now. As bad as Justice's record of enforcement is, it would have been much worse without the prodding of private suits. Control Data's suit against I.B.M., after years of trying to get action from Justice, finally forced the Government's hand. With the elimination of private actions, there would be no brake at all on the abuse of corporate power within our governmental process.

There is strong reason to believe that Mr. Nixon's Phase Three will mean permanent controls and protection for these largest corporations, the true source of our inflation. And we may have corporate socialism before we know what has happened, voted in by Democrats and Republicans alike, in the name of "controlling" big business.

JOAN M. VAN HORN.

Miss VAN HORN. Monopolies here will not make us more competitive overseas. The new populism developing in all spectrums of the political scene, from the left to right, must not be ignored.

Firm steps must be taken now, using existing laws, to break up our monopolies and large blocks of economic power. Divestiture is better for employees and shareholders, as well as for the economy and the general public: it is bad only for the top executives' salaries and egos.

Our new technology and our new affluence make the possibility of true democracy more real today than at any time in man's history. This

new humanism is not based on a quaint nostalgia for the days of Teddy Roosevelt, but on a new consciousness, based on our new electronic age.

The alternative to controls is the immediate breakup of large concentrations of economic power, such as IBM, GM, Western Electric, and A.T. & T. and restoration of a political and economic system based on the checks and balances of a multiplicity of interests. Congress should strongly and without delay reassert its role in monitoring the enforcement of its laws by the executive, and effective competition, and strengthen private and third-party enforcement of existing statutes.

The following suggestions to improve competition and revitalize our economy are treated in more detail in my full statement and are based on my own experience:

1. Insist on evenhanded enforcement of the existing antitrust laws with adequate funding from Congress to prosecute all offenders.

2. Avoid new regulatory solutions, such as embodied in the proposed Celler bill. Strengthen, don't weaken, the private suit alternatives.

3. Combine FTC and Justice antitrust enforcement functions.

4. Define explicitly the rules for automatic divestiture, such as: Major segment of our economy, financial size or percent of market, dominance of an important segment of industry—A.T. & T.; consumer budget—GM; or vital means of production—IBM.

5. Reduce the patent protection period to discourage the use of the patent laws to suppress innovation.

6. Reduce or eliminate the so-called natural monopoly whenever changes in our technology permit. As an example, A.T. & T. could be broken up into regional companies, and multiple vendors can offer parallel long-distance service.

7. Regulation of prices and rates of return should be phased out as soon as possible. An example is the transportation industry.

If we had not spent 100 years shoring up the railroad industry, we would not now have the wreck of the Penn Central and the threatened nationalization of our remaining railroads. We would have a reliable, point-to-point, containerized, land-based, long-haul transportation system, but it would look nothing like our present railroads.

8. The existing antitrust laws should be revised to strengthen the potential for private and third-party suits. Bond requirements should be loosened for a small firm challenging a much larger one. Third-party suits should receive Government assistance. The portion of the treble damages award to be recovered by the third party and its lawyers should be two-thirds, with single damages going to the victim, if they were unable or unwilling to sue on their own behalf.

9. The existing antitrust laws should be revised to define the base for calculating the treble damages as either the plaintiff's losses or the defendants' gain, whichever is larger. This would deter predatory action where one company has more to gain than the smaller one can possibly lose.

10. Corporations should be required to report separate financial statements for any product or service where the income, expense, or assets figure exceeds \$1 million in 1 year. This would end some of the inequities in disclosures and taxation between the large, multiproduct firm and the small, one-product one.

11. A new method of obtaining access to capital for new ventures must be found. The present financial system does not permit the entrepreneur to bring his dream to market except on their predatory terms. The game is run for the sake of the stock, not the new business. The small investors, including the friends, relatives, employees, and customers of the entrepreneur, are denied early participation in the venture in favor of the friends of the investment banker, but are usually the ones victimized in the end when the bubble bursts.

A new kind of public underwriting firm should be set up to assist the new venture to obtain capital and to allow the general public to invest in moderate amounts. It would take orders on a first-come, first-served basis and would be prevented from taking fees in stock or warrants.

12. The Congress should set up an agency like GAO, reporting to Congress rather than the executive, to monitor on a regular basis law enforcement, not just of the antitrust laws but all the laws written by Congress, to revive the original intent of our Government for a system of checks and balances.

Time is growing very short. The pace of man's rising expectations is accelerating as rapidly as his new technology. A radical change will come: a new dedication to participatory democracy. The only questions are the timing and whether the change will be peaceful or violent.

The Senate Antitrust and Monopoly Subcommittee can begin right now the rollback of economic concentration which is strangling our economy, ruining our foreign relations, and alienating our people. We must prove anew that our political institutions are dedicated to enhancing the freedom, dignity, and well-being of man.

(Prepared statement follows. Testimony resumes on p. 184.)

STATEMENT BEFORE SENATE ANTITRUST AND MONOPOLY SUBCOMMITTEE ON
"CONTROLS OR COMPETITION" BY JOAN M. VAN HORN JANUARY 20, 1972

Thank you for an opportunity to make this statement to this Subcommittee. My professional background since 1954 is primarily in the computer field, with recent emphasis in teleprocessing, or the use of computers in conjunction with communications. In 1966 I formed my own company, VIP Systems Corporation. The views I express are my own, and to the extent that they may concentrate on certain aspects of our economy or certain industries within it, to the exclusion of others, it must be ascribed to my personal view and the limitations of my experience.

A new attempt to reverse the economic concentration of the country and the global economy as well, which I hope will be the outcome of these hearings, is urgently needed. The growing concentration of industrial and financial power is a fact which has been chronicled well by others, and I will not repeat those statistics here. What I would like to address is some of the other effects of the knowledge of this on the part of our people. There are growing resentments and cynicism towards everything which the present industrial order represents, both good and bad, and in the frenzy of reformists to undo the mischief which our present political and economic system has created, we may destroy both the good and the bad achievements of mankind's progress to-date.

TECHNOLOGY AND CONTROLS

Technology is not the villain. Neither will it be our savior. Our problems rest with people, as they always have. The "technocrat" is not a villain because he uses technology as a tool to reinforce his power and do his bidding, he is a villain because he misuses his *power*, whether for good or bad motives. Our villains are, and always will be, men. The new tools of the technology are co-conspirators only to the extent that they permit *one* man, without the help of others, to

control a larger number of his fellows than in a more primitive economy. The technology, misused, can be used to control ever larger numbers of people by fewer and fewer villains, if you will. But the basic problem remains the same: how to protect society from the malevolent actions of such men.

The problem of controls is as old as that of government itself. Is it true that a government governs best that governs least? How can society protect itself without infringing upon freedom or stifling innovation, change and diversity? Are these things necessary or important, or can life be summed up by a few simple, basic truths which, when finally discovered, will make further search, thought and intellectual activity, and the material innovations which are sometimes their result, no longer necessary?

In our more recent history, we in the United States seem to have discarded the original design of a system of checks and balances for a more comprehensive bureaucracy centering more and more power in the Executive Branch, and consigning Congress to the role of holding hearings and writing laws, some of which are blatantly left unenforced by the Executive forces of "Law and Order". In addition, there is a growing awareness on the part of both government and the people, that the regulation approach is not working. In some cases it is merely too slow and reactionary in its outlook, in others it is too easily influenced by the lobbyists of those it is supposed to be regulating (in the absence of any other organized effort to enforce the original intent of the statutes which brought the organization into existence), and at the *worst*, too prone to direct government influence on the part of special interests and against the public interest.

The major problem of bureaucratic solutions is that they *don't work*, are a charade merely to diffuse public concern with a sham solution, and in large measure, permit business as usual. Big Business welcomes such solutions, so that it can use its power to subvert that process, away from public scrutiny. And, so far, it is working. But that is no reason why it has to continue. The sham of big business protesting regulation and controls was never more satirically presented than in Ayn Rand's novel, *Atlas Shrugged*. In fact, one might say that the more the government pretends to be controlling big business, the more big business is controlling the government. And the recognition of this hypocrisy by more and more people is the source of much of our discontent today.

The notion that the economy, and in fact our whole democratic process, *can or should* be controlled is a very dangerous one, and it emanates from both the Left of John Galbraith and the Right of Richard Nixon. It is based in both cases on the same premises: (1) That our notion of Democracy is old fashioned, and that we have never had it anyway, so we won't really miss it if some few take it away. (2) That the people are not really capable of governing themselves, and need an elite few to think for them, and (3) That the ferment and diversity of ideas, products and artistic achievement, which leads, in my opinion, to a vital economy and society, is inefficient and therefore can be streamlined by more autocratic control of our society and its resource, *ultimately* based on the notion that there will never be enough to go around and without controls there would be chaos!

What is the difference between these autocrats of the Left and the Right? Only the question of which group deserves to appoint the Philosopher-King, the liberal intelligensia or the minions of economic power. Both of these groups are the most subversive forces today in our society, if you read their thinking next to the Declaration of Independence, the Bill of Rights and the thoughts of Jefferson and Lincoln! They both form part of an intellectual and power establishment which is being rejected not only by the young but also the middle class.

Galbraith, for instance, claims that our *computers* now make it possible for us to model the economy in a new, controlled way. While admitting that past models have been imperfect, he feels that we are close to perfecting the process, and as many businessmen believe, while accepting incorrect forecasts as supposed fact: "a wrong forecast is better than none at all." With these albeit imperfect management tools, labor, plant, equipment and capital requirements can be predicted, along with prices, costs and sales. And he believes that there should be comprehensive forecasting and planning for the whole economy. Only Milton Friedman, of the more frequently quoted economic greats, has the humility to admit that such planning is impossible!

I totally disagree with Galbraith, and think his suggestion that total planning here would work better than it does in the Soviet Union *because we have computers* is a fraudulent concept. Planning will not work because life is not like that. Planning and total controls are totalitarian, no matter for what noble pur-

pose they are ostensibly proposed. The great genius of the American political system to-date, as contrasted with the more rigid systems of Europe, is its degree of upward mobility and participation in the political process by many people. One might say that the economy is in reality a "bubble up" rather than a "trickle down" one, and when it *ceases* to be so, it begins to atrophy and die.

I think that is what is wrong with our political and economic system to-day. The government is frantically trying one managed solution after another, and getting deeper into the morass, because it is trying to model its operations after the concept of business planning and by listening to poor advice from those of exceedingly limited vision, even if we imput to them the best intentions. Recessions and depressions, in my opinion, are caused by the dislocations which occur when industries which have been *protected* from competition, by influence, government subsidies, so-called regulation, unfair or predatory competitive practices, or other unnatural methods, finally are swamped by the onrush of inevitable events. Such dislocations, I believe, are much worse when they finally do come than if the industries had been permitted to compete or die at an earlier point in time. The problem is that later, they may not only die, but may infect other industries as well, and of course in the moribund period they have wasted the public's money, either directly by supported prices or indirectly by government funding.

Well, that is the problem of relying on "big government" solutions, you may say. But these ideas are rampant among the leaders of big business as well. Thomas Watson, Jr., Chairman of IBM, in a speech to the New York Bond Club in 1970, explained his thoughts on the matter thus:

We need a new National Goals Commission, he claims, not like other Presidential Commissions, but one with authority and power to act, granted by Congress initially. Using computers and these new modeling techniques, he states, the Commission would be able to study and cost out all proposals and alternatives so that the Congress would no longer pass any conflicting legislation. He recognizes that our present national goals are set by the Declaration of Independence, the Bill of Rights, the press and public opinion, but he feels that this process is too confusing and inefficient. The *nation* should be run like he runs IBM!

"Debate could be limited to the possible", he suggests (no impossible dreams allowed!). "A new Congressional program offered to the country as a Congressional bill would have to be integrated in the overall goals and priorities of the country before being presented to the public." In other words, this body (appointed, not elected by the people) would pass on the works of Congress, too, and before the public would be permitted to review the proposals!

He decried the negative thinking and despair of today in our people, and thought we should be more *thankful* for our successes and achievements. A permanent Goals body would deal with *this* too, and would "not only set goals—it would report progress and achievement." And force us to be happy, as well?!

If this line of thinking should be reminiscent of something you remember about the early Hitler movement, I suggest to you that it is the same. It is a proposal, no matter how well meant, which is exceedingly dangerous to our Democratic institutions. It would ultimately put **TOTAL CONTROL OF EVERYTHING** conveniently into the hands of a very few, and usurp the role of Congress and public opinion, especially if that opinion were negative towards the actions of the Government.

I am sure Mr. Watson is absolutely sincere in his belief that the best thing for most people is an extension of IBM's paternalism to the entire world population. And I am absolutely sure he is *wrong*; that this attitude will lead to a frozen intellectual and economic system as bad as that in the Soviet Union, and that this is one of the *most subversive* ideas rampant in today's government. And I am sure he is not the only executive of big business who harbors this patronizing attitude towards our democratic institutions.

What are some of the alternatives to the increasing growth and centralization of power in the Executive Branch of the government, with its propensity for corruption? One is more effort on the part of Congress to oversee the actions of the Executive on a regular basis. Another is to break up the existing economic power blocks in our *major* industries, so that honest *competition* can also serve as a check against the abuses of economic power. A third is to revise the laws so that private suits against the abuses of these behemoths can be presented more quickly and on a fairer basis. And fourth, we should permit third party

suits, such as qui tam actions, on the part of a citizen or citizen activist groups, to serve a public ombudsman function and extend the original intent of the Founding Fathers, who wisely recognized that the Philosopher-King is not really to be expected until the Second Coming at the very *earliest*, and in the interim, we need a system of checks and balances to create a viable government with imperfect mortals.

BUSINESSMAN POOR POLITICAL ADVISOR

One of the things which amuse me is the notion that the big business executive should be invited into the councils of government to recommend political or economic solutions for the nations ills. Clearly, the spectacular lack of success of the Nixon administration, both in *defining* our problems as well as trying to *solve* the problems they did define, is some evidence that this is the wrong group to turn to for advice. But the problem is more basic than merely the choice of the wrong advisors or their sycopathic consultants. It goes to the heart of the nature of the business executive himself.

For, no matter how bright he is, or how fine his formal education may have been, he is the success he is because of a remarkable tunnel vision about both his own business and life itself. He tends to be very autocratic, and also to be surrounded by many yes-men. He works very long hours, has limited social horizons, and his total energy is devote to making *most* of the numbers on his firm's balance sheet get to be *larger* next year than they were last year. His concern is with next quarter's figures, next year's annual report. Of course these corporations have 5 and 10 year plans, generally provide by lower management, but the chief assignment for the top executive is the short term growth of his corporation, and the short term decisions which are related to that goal. This is his contest with life, and his rewards system is built on it, his stock options and management bonuses.

These men are not economists, not philosophers, not profound thinkers. Their autocratic ways within their own firm, and that tunnel vision, is not necessarily bad either, as long as it does not lead to predatory or illegal actions. But it must be braked, and one of the most effective brakes for the potentially dangerous economic czar, as the chief executive of any major monopoly is, is to have *vigorous competition*. And it is this set of mores, goals and drives, inculcated since business school and in all management training programs, which causes the notion of divestiture of a large block of economic power to be so anathema to these key executives.

Even when they may know the organization has really grown too large to manage efficiently, and that the employees, the shareholders and the economy would be better off if it were divided, it goes so against the grain, because that "just isn't the way the game is played." What I am trying to say is that the vision and operating habits of big business executives is both too narrow and in direct conflict with the democratic process. The decisions about the nature of our political and economic structure must be made by *others*, hopefully by the interaction of the diverse forces within our society, because I don't think there is *one* idea or group of potential governmental advisers with all the right answers. The important thing for this subcommittee to realize is that *you*, as lawmakers, and politicians, are perhaps in a better position to write wise laws for the future of our political and economic well-being, because you can take the longer view.

Indeed, the best way to get a business executive to take action on a social problem is to force the problem onto his balance sheet. If the SEC for instance, forced the cost to clean up an illegal pollution situation onto the balance sheet, perhaps under an item marked "Potential Liability for Pollution Violations", it would bring the matter to the attention of the executive and the public very quickly. Instead, the companies which have been violating the law for years are now asking the government and the taxpayers to provide the cost of the clean-up! And at inflated prices, you can be sure. You would be surprised at how fast and inexpensively the problem could be cured if it became obligatory to list such problems on the financial statement and *no* rebates were offered for the corporate lawbreakers.

Investment tax credits and R & D tax incentives are, in my opinion, also a waste of money. If there is any real intent to compete, there will be plenty to incentive to modernize. Our problem is that our industries have operated like the Improvident Ant, trying to bleed their businesses today and now asking the public taxpayers to pay for providing for tomorrow when they finally discover that their shortsighted tactics are bankrupt.

One of the serious problems which growing economic concentration causes is that it defeats new ideas, both within its own organization and outside. New products are suppressed because it is better for the balance sheet to continue to rent equipment which is fully amortized, or to continue to produce an old product because the plant is already paid for. This is not, however, good business practice but a mockery of free enterprise. It is prevented by new competitors or new products coming to market which supplant the need for the old. If nature were to take its course, there would be an acceleration of new ideas and products, both material and intellectual, as man passes the subsistence level and a larger share of the population is educated to operate more in the intellectual sphere of human activity, the desire to contribute to the well-being and progress of mankind by the more permanent products of our intellectual capacities grows.

It is here that the United States is unique, because it is here that a major portion of the population has reached this level of development and desire to participate. It is for these reasons, in part, that Francois Revel expects the next great revolution of human thought to happen *here*. However, such a revolution will change many of our present revered institutions, in particular some of our more entrenched economic ones. And the establishment now so concerned with "law and order" quite realizes this.

It is not the law they are concerned about, which they break with impunity, but rather their *order* in the scheme of things which must not be disturbed by any new ideas. The only question in my mind is whether we can hold on to a rule of law and a system of checks and balances, against the growth of a police state in support of our economic institutions, long enough to make that transition by peaceful means. The question is not whether change will come, it is rather whether that change will be towards a new freedom or a new level of totalitarianism; whether we can finally achieve Jeffersonian Democracy or Orwell's 1984!

PEOPLE LOSE WHEN INNOVATION IS RETARDED

When innovation is suppressed, as it is inevitably where monopoly or corporate giantism exists, the people always lose. Aside from the loss of the individual's right to develop all his potentials, which may be suppressed this way, there is the loss of the new product or service itself. In a free market, new products will either be accepted as improvements over the old way, or will be rejected by the potential customers. Only those which are truly an advantage will survive, and presumably because the product or service is better or less costly than alternatives.

Aside from the many small things which have been lost to mankind by the inevitable suppression of new ideas by big business, let me hypothesize a *large* innovation of potentially profound magnitude, out of my own area of specialty:—the idea of the "Wired City", as it is sometimes called. This is the concept of a society where all homes and public places are able to interconnect pictorially with every other wired location, and with a vast data bank, containing, for example, all business records, all pictorial entertainment, all the world's knowledge, the contents of all the libraries and museums, and the current thoughts of every teacher and creative artist who wishes to so record his work for the benefit of his fellow man.

Is this possible? Yes, indeed. The technology is already here. One of the deterrents is the time and cost of conversion of this information into electronically storable form. But, of course, some data might take priority. Medical data, like films of important operations. Educational materials, like films of famous professors and lecturers giving some of their best or most noted talks. And films of famous theater events, because this may be one of the first, most commercially viable data bases. And of course, schoolroom materials, so that *at last*, each child will really be able to "go at his own pace", or have the equivalent of a private tutor, as well as being able to explore every avenue of human thought and activity as the impulse occurs to him, the point where he is *most* motivated.

Will there be other effects of the wired city? Indeed. Most people who are working with information, including an increasingly large portion of our population, will be able to work from their homes. The data and the people they need to interact with will be as close as a telephone call from their console TV. The *city*, as we now see it, will no longer be necessary. It will be possible to have complete dispersal of the population, because communication will be *electronic*, instead of physical.

Traffic jams would end, and with it much of our air pollution. Understaffed schools would not exist. There would be the same intellectual and cultural opportunity at any point in society, and life could be simpler and more healthful. There no longer would be the separation of husband and wife occasioned by the dichotomy of the "home" and "office" lives which we lead now. People could enjoy a pastoral existence, with a vast increase in their potential for intellectual stimulation and interaction with their fellow-man through this new medium, the combination of television and the computer, but far greater than either.

Will it happen? Not soon, and maybe not at all. First, the telephone companies are not willing to enter this field, or they should have begun 20 or more years ago. But, they view their role as a very limited one, and recently applauded themselves for having achieved the goal of their original founder by finally bringing the telephone to 100 million Americans. The founder promulgated that goal in 1904, and no one had thought to redefine it in the last 70 years! So much for corporate goal-setting and planning.

The Cable TV people are not ready to try it either. Their view of their role is too limited. They are still working on establishing exclusive franchises and getting permission to import instant TV signals. And fighting the battle with the Broadcasters. The FCC and the President's Office of Telecommunications Policy are certainly not interested in helping them innovate. They are trying to protect the interests of the broadcasters. The CATV people themselves are afraid to contemplate the wired city, and instead are content to promote the concept of "narrowcasting" as an alternative to Broadcasting. The notion that the *viewer* should be *his own programmer* is too frightening, too anarchistic a concept!

But the *real* problem is one of financing. Remember all the present industries which would be outmoded, or at least severely limited from their importance in our present economy! Automobiles, office buildings, transportation, schools and teachers, medicine, highway construction, theaters, oil and gasoline, textbook publishers, and many others. It would, in addition to eliminating many of our most noxious problems, also eliminate many of our present industrial giants. And the financial establishment would not want to risk its heavy investment in these already established institutions. Oh, they might fund a pilot project or two, if an entrepreneur were found who seemed to have sufficient charisma to sell the concept and the *stock*, but *enough* money to make it succeed as a business? Not on your life!

Unfortunately, as you may have noticed, this is the very same technology which George Orwell described in his nightmare of 1984. It can also be developed by a very limited set of companies or interests, and used primarily to reinforce the status quo and the police state. It may be a sorry harbinger of things to come that some of the first uses of computer data banks are in the National Crime Information Center of the FBI and its affiliated police computer centers throughout the country, in the credit reference check business, and, as recently reported, to automate the passbook system of apartheid control in South Africa. No school applications, no medical applications, no "Dial-a-movie", at least not on an operational scale.

The most notable applications of this technology so far seem to be in police or quasi-police functions. Once again, the problem is not the technology, but how we use it. This technology could provide a new way of life, integrating the pastoral ideal of the new romantics with the communications concepts of McLuhan, to provide a new freedom of opportunity and intellectual life, along with a more healthful relationship with our physical environment. Or it could be used for planning, controls, and protection of the established order.

MULTINATIONAL CORPORATE GIANTISM

The multinational corporation seems to have many definitions, from one which markets in several countries to one which has manufacturing facilities in many countries and from one or more of these, sells to a multinational market. Some multinationals are based in the U.S., some abroad. Some are monopolies and some are not. Some are domestic industrial giants but of relatively minor force in the non-U.S. markets. And some, such as IBM, are world-wide monopolies, in addition to being domestic monopolies.

Multinationals are not of themselves bad, but when they are monopolies, either of the domestic or world markets, they must be dealt with as the problem they are. If they are headquartered in the U.S., the antitrust laws should be applied vigorously to them. The claim that they are in some way necessary for

international trade in their present form, should not be accepted as an excuse for overlooking their threat to the domestic market.

IBM, for instance, has over 60% of the European Computer market, with the exception of Eastern Europe, where trade in computers is negligible. The Western European countries are trying desperately to develop a viable computer industry. The Japanese, however, still claim to have 50% of their own domestic computer consumption, and are determined to hold IBM's market share there at its present level of an estimated 30%.

In my opinion, these countries would not be so concerned about foreign computer imports as they are about them coming from *one* company, IBM. It is IBM's *monopoly* aspects which make it a liability to us in international trade. Breaking IBM up into ten or more separate companies, as Standard Oil was broken up years ago, would be beneficial not only to improve our domestic computer industry health, but also to permit us to sell more computer products abroad without the onerous threat of one-company world domination of the computer market.

IBM's influence with our government should not be permitted to keep Japanese computers out of U.S. markets, or to force Japan to accept IBM in a larger percentage role at home. In my opinion, the problem abroad is not so much U.S. domination of the computer market as it is IBM's monopoly position world-wide. Solving that problem will go a long way towards improving our trade position in what used to be one of our proudest areas of technology.

There is a new interest on the part of big business and the Administration to weaken our antitrust laws, claimed to be "outmoded," supposedly to facilitate our balance of payments, and to encourage foreign investment here. Neither of these concepts is valid, in my opinion. A monopoly is dangerous, both to the world economy and to the domestic one. Its operations and its base are everywhere and nowhere. It is, in the last analysis, above the interests of any government, and a law unto itself.

However, now that there is a renewed interest in enforcing the antitrust laws, there is a massive public relations campaign designed to convince the American people that these industrial giants are, in some mysterious way which the man-in-the-street should not inquire into too closely, vital to our international trade and balance of payments, and that *these* factors are indispensable to our national well-being.

Quite the opposite is true. The U.S. can compete when we have newer, better products, which are the result of free market competition at home. If we have the *products*, we *can* compete. If we strangle our industries at home, we will have nothing to sell. Arguments about the "need" for Joint Marketing Agreements should not be used as a ruse to amend our antitrust laws into oblivion!

What is more important, we should not allow the advice of these corporations to affect our conduct of foreign policy for their benefit, for protectionists tariffs, or to wield the power of the U.S. government behind their commercial dealings with others. For these international corporate giants are the "ugly American businessmen" of today, and to the extent that their predatory habits become associated with this government or pushed as representative of the free enterprise system, we do ourselves, free enterprise and our trading partners a great disservice.

We cannot force other nations to deal with their monopolies, but we can set an example, and urge like conduct. After all, the majority of these international giants are headquartered in the U.S. anyway. And there is rising concern in other nations over this problem. The Germans were recently reported in the press as looking into enforcing their *own* antitrust laws, and the French, from DeGaulle to Servan-Schrieber, have been concerned about international economic giants. Schrieber has declared that, if present trends continue, he expects the world to be dominated by only 60 firms, of which 40 will be headquartered in the United States.

You will notice, however, that this is fewer than the number of countries now in the United Nations! Surely this concentration, which is world wide in scope, will be a threat to the sovereignty of nations, and any world system of governments based on geographical boundaries, language and ethnic traditions. In other words, *people oriented*, in favor of one which will be *resource* oriented, with all the resources in fewer and fewer hands. Such blocks of power can, and perhaps already do, undermine all existing political institutions.

What if they do, you may say. Maybe that will be better. Maybe the IBM motto of "World Peace through World Trade" will work. Maybe. But that could be

done by thousands of multinational companies; it would not need to be just a few monopolies. And besides, there is very little evidence to that effect. England and Germany were major trading partners before World War II, and that did not prevent a conflict. And the Japanese, as I recall, were promoting something called the Greater East-Asia Co-Prosperity Pact when we challenged them in the early 40's. It would seem that trade may *also* be a *cause* of war, especially when the government becomes too identified with the international activities of its corporate giants. Our recent "hard line" negotiations with our trading partners, and especially the news that the Japanese are now feeling so alienated that they are likely to rearm and mount their own atomic capability, is not a reassuring outcome of the present administration's foreign economic game plan. This is the plan, which includes the domestic economic plan as well, which was expounded in the report to the President of his Commission on International Trade and Investment Policy of July 1971.

This Commission was headed by Mr. Albert Williams, a Director of IBM, and included Gerstenberg of General Motors, Metcalf of Sears, Myers of Burlington Industries, and Stinebower of Standard Oil of New Jersey, along with several Bank executives, university professors and consultants. The outgrowth of this report, embargoed for several months while the President put its recommendations into effect, has been passed on it the more recent Peterson report which summarizes it. And, it is peppered throughout with the recommendation that our antitrust laws need revising, and indeed may be the very heart of our international trade difficulties. Nonsense.

The Williams Commission Report recommends a permanent status for the Council on International Economic Policy, provided for by Congress, which would coordinate all our international trade activities in one group, headed by a Special Assistant to the President, who conveniently is immune from Congressional inquiry! This group, on advice of the President, would make all decisions on reciprocity in international trade dealings. Such new legislation would grant the Executive power to negotiate tariffs and restriction changes as necessary on short notice, without the express approval of Congress. These new powers, if approved by Congress, would put all these negotiations behind a veil of Executive secrecy, from both the Congress and the public, and go a long way towards eroding Congress right to approve treaties. In addition, the opportunity for favoritism is rampant in such a system. Indeed, the Report recommends that much of the staff for this council be provided by private industry.

The Williams Commission Report holds up the Japanese as a model for us to emulate. This is typical of the folly of listening to such advisers. While the Japanese have a high growth rate and the second or third GNP in the world, their per-capita income is only around twentieth! They have done a remarkable job of working towards an industrial state from a feudal one in little over a hundred years. But, in terms of economic well-being of their people, they are still about 35 to 50 years behind us, by my observation. Their people are becoming better educated, more demanding, and more mobile in their employment than was true even 10 years ago.

And yet, while they are trying to evolve towards something we once thought of as the American dream, our business and political leaders are trying to promote a modified version of feudal paternalism for *our* future!

POPULISM, EVERYWHERE

Is this what the American people face for their future? Modified feudalism? Will that be our new American Dream? I hope not. I think not. The American people are very sensible, and at every moment of crisis have been able to sort through the nonsense and get the nation back on the track again. I think one of those times is *now*, and one of those issues is the growing worldwide economic concentration.

It seems to me that there is growing discontent among the people who are questioning everything about our system anew. And this is healthy, we must continue to question, always. Because no vital system is static, and no static system can survive. The old idea that every man born had a chance to become President or perhaps go into business and become a big success, is no longer true. It appears that no one can achieve either today without becoming an employee of the existing financial and industrial power blocks. And the people *do not like it!* That is not supposed to be the way politics and Democracy work.

But, you may say, it has always worked that way? Not entirely, but even if it *were* true, that does not mean that the ideal cannot be achieved more readily now than in the past. One of the benefits of our technology and communications is that it makes more people able to contribute to the political process in an informed way. As we lift people beyond the subsistence level, by use of what Buckminster Fuller calls "inanimate slaves", we are reaching the point where each citizen should have the right and the ability to participate in the intellectual and political affairs of the country. In the Greek era, large numbers of human slaves were required to maintain such a society, and even so it proved very fragile, succumbing to tyrants and perishing in disastrous wars. But our new technology, which can relieve both man's physical labors and supplement his more routine intellectual tasks as well, can permit a new birth of this form of participatory Democracy, but now one in which *all* men can participate, where no man is a slave!

I think the people understand this, even if our leaders do not. This is the reason for the widespread rise of what is now being called new populism. This *also* seems to cover the spectrum from Left to Right. From the New Left of Charles Riech's Consciousness III to George Wallace's populism, to Senator Fred Harris' New Populism, to the Libertarians and fans of Ayn Rand on the Right. And I suppose you could throw in the Jesus Freaks, and many others. All these groups are looking for a new emphasis on *People* and less on things and institutions as objects of our value systems. They are all questioning for whom the country, or even the world, is being run. They are asking hard questions, and we need new and honest answers.

Among the most important of these are questions on the ethos of scarcity, the Malthusian notion that there is not enough to go around; the difference between those who think in terms of "you or me" instead of "you and me"; between the notion that one man succeeds at the expense of his fellows and the notion that if one man fails we are all the poorer. A new measurement of a society in human terms rather than in terms of steel tonnage and hydro-electric power is needed to set our priorities anew. But, in the process of improving our material well-being we must not relinquish the values even more dear, our intellectual and political freedom. We must create and maintain institutions which will be able to avoid and prevent abuses of power.

This new populism, or new humanism, as I like to think of it, is not based on some quaint nostalgia but is the inevitable outcome of our technological and material success. The current desire to curb the economic power structure, to bring it under control and prevent its manipulation of our governmental process, is a *new* consciousness, based on our *present* electronic age and not to be dismissed as a quaint longing for a return to the days of Teddy Roosevelt.

WHAT ARE THE ALTERNATIVES TO CONTROLS?

It is my opinion that competition, restoration of a system of checks and balances within our political and economic system, stronger Congressional involvement, stronger laws and uniform enforcement of them against the corporate giants, private suits by both injured parties and third parties as well, will provide us with a much more *effective* set of controls than another solution to put more and more power into the hands of the President and his hand-picked, accountable-to-no-one advisers.

It is my firm belief that the economy cannot be *managed* for the benefit of the people. There is too much we simply do not and cannot predict about both economics and human needs, desires and aspirations. Such an autocratic system can be used, however, to *control* the people, and thereby stifle both our freedom and the health of the economy.

PRACTICAL SUGGESTIONS FOR CHANGE

As a woman, a mother, a scientist, and an entrepreneur, I feel that changes are necessary to strengthen the people's ability to control these large blocks of economic power. I am not, however, a lawyer, so I will try to define my suggestions in terms of hoped-for practical *effect* rather than changes to the language of the U.S. Code.

1. The present laws are not bad as they stand, if only they were *enforced*. Before we embark on a great frenzy of "reform" to assuage public concern but merely add innovation and confusion to an already weak enforcement policy,

we should make a strong effort to enforce the laws as they now stand to see where they really fall short of our needs.

Congress can appropriate adequate funds, to start with. The Antitrust Division's practice of filing an occasional suit supposedly to serve as an example to others, on the unproved assumption that the Bar will then counsel its clients to avoid such abuses, must be stopped. There is no evidence that this works.

Moreover, if a public prosecutor were to bring to trial only one in 100 or one in 1000 murders, on the theory that all other citizens prone to violence would be advised by their counsel of the folly of murder and thus desist, he would be fired promptly. If such a proposal were made, it would be a great scandal in this age of "law and order". And yet, it seems that this very kind of thinking is applied to corporate crime.

It is the recognition of the hypocrisy of this performance, the maladministration of justice where the interests of the economically powerful are concerned, which gives rise to so much of the bitter cynicism of today. It would be interesting to discuss with the families of lung cancer or emphysema victims *their* views toward leniency for the corporate mass murderers spewing pollutants into our environment!

An example of this attitude is the contrast between the President's attitude towards Charles Manson (dismissed as a murderer even before he stood trial) and his close relationship with the executives of IBM (Arthur Watson made ambassador to Paris, Thomas Watson invited to Tricia's wedding, Al Williams architect of the New Economic Policy) while IBM is charged by the Justice Department with violating the antitrust laws under Sherman 1 and 2. The fact that the administration is now prepared to recommend "modernization" (weakening) of our antitrust laws in the name of international trade on the basis of this advice seems to me an incredible exposure of conflict of interest in choice of advisers. It is *this* sort of thing which fuels our cynicism and discontent.

It seems that Congress could take a more active role in prodding the Antitrust Division to prosecute *all* violators, to search them out rather than wait for complaints, and to immediately file suits or even injunctive orders to *break up* some of our more notorious monopolies of major industry segments, such as General Motors, AT & T, Western Electric and IBM. To do these things would require more funds and more determination on the part of Congress to grapple with the problem of economic power, but no new *laws* at all!

2. This does not mean that I cannot see some possible improvements in our laws, but merely that we do not have to go through lengthy public hearings and endless legislative proposals to make *some* major changes, in keeping with the intent of the original laws. One of the dangers I feel we must eschew, however, as we look into improving our antitrust laws, is any more regulatory solutions, such as the proposal of Emmanuel Celler in his recent bill.

The Celler bill would put control of the top 200 manufacturing and 100 financial institutions in the hands of a Cabinet level Administrator, repeal Sherman 2 and eliminate all private suits against these 300, on the assumption that the Administrator *alone* will protect the public interest! This bill, if it passes, would permanently enshrine these firms' positions in the Corporate State, perpetuating the *charade* of government control of big business.

We need no more vivid example of the ultimate folly of regulatory solutions than the transportation industry, the first one we attempted to "regulate" 100 years ago. Its latest triumph is the wreck of the Penn Central, soon to be followed by nationalization of our remaining railroads, if the Wall Street Journal is to be believed!

3. Another area where change might be made, to streamline the executive branch and make better use of available funds, would be to consolidate the antitrust enforcement functions of the Federal Trade Commission with the Antitrust Division of the Justice Department. Any FTC functions *not* related to antitrust enforcement could be transferred to other agencies.

4. The antitrust laws might benefit from a better definition of the criteria for monopoly candidates for divestiture. It seems that one criteria must be that the industry of concern be a major segment of our economy, either by total financial size, *or* by its dominance of an important segment of the consumer's budget, *or* as one of the vital means of production.

It should not cover new firms or technologies whose temporary monopoly is the result of unique patents, nor industries which are not vital to the economy, like *sports*! The abusive personnel practices or other problems here can be addressed under existing laws, for the most part. But the excessive concern of

the Congress over this industry, diverting attention from IBM, GM, Western Electric and U.S. Steel, is appalling!

5. The current move to extend the time period for patent protection should *not only* be resisted, but the time period of 17 years *drastically reduced*, to between 5 and 10 years. Because of our new technology, it is possible to get a new idea into production much sooner, if there is any *real intent* to do so.

Instead, our patent laws are used to suppress new ideas in the interest of existing plant and equipment. The laws are being used to protect the status quo, *not the invention*. In addition, the individual inventor very seldom gets to file any significant patent; it has become too expensive in legal costs alone.

Some way should be found to reduce the cost of obtaining a patent for the basement inventor, so that he has a *choice*, other than selling his idea even before it is patented. This problem, coupled with the problem of obtaining adequate capital from the existing financial structure, makes the notion of the basement inventor as a potential entrepreneur a hollow joke!

6. Reduce or eliminate the so-called "natural monopoly" whenever or wherever possible. Just because, at one point in time or one stage of our technology, a natural monopoly may have seemed feasible, doesn't mean it need continue without check forever!

Long distance telephone service, for instance, could *now* be offered by a multiplicity of vendors, starting with long lines between certain cities and eventually extending over most of the major long distance routes. This was not practical when land cable had to be used, but the cost of entry equation has changed entirely with microwave and other communications techniques. Wouldn't it be a pleasure, when the lines to New York or California are busy, as they *so often* are *now*, to take your business elsewhere by merely dialing one prefix digit and redialing your party's number!

This is now possible, but so far there have been only small steps taken in this direction by the FCC, almost entirely in the area of data communications. It could be expanded to full telephone service, and licenses granted on a point to point basis. The important thing is to define and *monitor adherence* to the *standards of interface* for the alternate vendors with each other and the local telephone systems, something the FCC makes *no effort* to do now.

Serious consideration should also be given to breaking up AT&T into smaller, regional entities. Adequate interface standards should eliminate any reduction in service to the public. Break-up of this enormous juggernaut of financial and economic power into more manageable parts should provide more efficiency and lower prices to the consumer before long.

In addition, however, the long lines companies' dependence on Western Electric should be *ended*. A multiplicity of long lines vendors, competing with each other and with *neither* fixed prices *nor* guaranteed profits *nor* return-on-investment, would hasten the growth of enterprising new communications equipment vendors.

I have mentioned telephone long lines as an example of an industry where "natural monopoly" could be brought to an end, even more quickly than it was created, simply because it is one with which I am familiar. There may be others. We should always seize upon any opportunity to *return* a monopoly situation to a competitive one as the technology changes. Monopolies and regulation should not be considered a one-way trip!

7. Regulation of prices and rates of return should be phased out as soon as possible. It should be clear by now that this kind of so-called regulation is nothing but a license to steal from the public. It encourages inefficiency and collusion with suppliers and unions. It certainly contributes most clearly to rising inflation. It is bound to suppress innovation, both in terms of technology and management techniques.

An example of this is the transportation industry. Consider the sorry state of our maritime industry, or the railroads. Consider that some of the more notorious abuses of union power have also occurred in these industries, among the Brotherhood of Railroad Trainmen and the Teamsters. Abuses of economic power are bound to breed more of the same among those who attempt to deal with it.

These industries should be allowed and *compelled* to compete. Unions should not be permitted veto power over new technology. If we had not spent 100 years shoring up the railroad industry, I believe we would now have a reliable, point-to-point, containerized, land-based, long-haul transportation system. But it would look nothing like the railroads we have today. And, for certain classes of transportation needs, it would be quite competitive with the other modes of transportation: air, truck and sea.

What kind of regulation should be permitted? Regulation concerning standards of quality, compatibility and liability for poor performance. In other words, those which protect the consumer, the worker's safety and establish liability when things go wrong. And very little else.

8. The existing antitrust laws *should* be revised to strengthen the potential for private and third party suits. One of the most serious problems for an injured party in an antitrust violation is the high cost of litigation, which encourages violations. Perhaps a new definition of standards for injunctive action for private litigants, easing the requirement for posting bond when the defendant is much larger in economic power than the plaintiff, would help to equalize the uneven contest. A small plaintiff may be unable to post bond, yet if the violation continues, he will also not be able to survive to mount a full-dress antitrust action.

Another force which could serve as a protection to the interests of the public would be to expressly permit third party suits to be brought by a concerned citizen who is not an injured party. This could be done as a *pro bono* action, where the injured parties were unable to file because of economic reasons, or did not realize they had been victimized. Since the problems of monopoly (including oligopoly) affect the whole social fabric as well as the more obvious victims, such suits should not only be *permitted* but *encouraged*.

It might be helpful to define the portion of the treble damages which such a third party would recover for his efforts. I would suggest one-third, with one-third going to the lawyers and single damages going to the victims. If they were not able or willing to file claims themselves, this would be adequate compensation. Since the treble damages were designed to be *punitive* in effect, it makes no real difference how the award is split.

Some say this would lead to chaos, that it would clog the courts with suits, etc., and therefore is impractical. This is not true. Civil actions by third parties, or by public action groups like Common Cause, Nader's Raiders or The Sierra Club, could go a *long way* towards supporting these groups. A few resounding wins in court and you would *see* how fast many of the antitrust abuses would disappear.

Wouldn't this lead to a great many nuisance suits? Could this be abused to form a kind of corporate blackmail where firms would be inclined to pay off just to avoid the aggravation? I doubt it. But, one of the ways this could be avoided would be to deny third parties the abilities to settle any case out of court, in addition to providing for public funds to finance the suit, either during or after the trial! This *in itself* would serve as a further deterrent to corporate malefactors, who now delay trial as long as possible in the hopes of exhausting the resolve and resources of their opponents, and later settle on the steps of the courthouse because the *last* thing they really want is the public exposure of a trial.

9. Strengthen the *base* definition upon which the treble damages are calculated to be defined as *either the actual damages of the plaintiff or the ill-gotten gains of the defendant, whichever is larger!* In many cases, a firm makes a business judgment that it can violate the antitrust laws with impunity because it has more to gain than the potential plaintiff can prove he lost.

Consider if you will the case of a small firm trying to bring to market a new product which will obsolete an existing product or technology of an existing corporation. If, by predatory action, the older corporation succeeds in completely destroying that newcomer, not only is a treble damage suit unlikely, but how do you prove the plaintiff's loss?

So much depends upon speculation concerning the future success of the new product, which is difficult for a judge or jury to accurately assess. What *can* be assessed, however, is the profits which the predator received as a result of maintaining his hold on that market and suppressing the newer technology which would have displayed it. While this amount *may* be *less than* the real future damages of the plaintiff, it will be larger than the known and proveable losses before the product or company expired, and will be easier to calculate than the speculative future profits on a defunct product or firm. Ensuring that the punishment is three times the *potential gain* would certainly go a long way towards preventing this class of monopoly abuse.

10. The level of detail of corporate reporting should certainly be changed. While this may not seem to be directly related to the antitrust laws, it certainly is related to the viability of the entrepreneur. All corporations should be required to make available to their stockholders and the public financial data by product or service, not just consolidated figures, as at present. The criteria might be any product whose revenue, assets or expense figure was at least one million dollars in one year.

This would put no additional burden on the corporations, because they are maintaining such project information anyway on their computers. And the reproduction costs are small, if you make distribution on microfilm. Even if the report runs 400 pages, it should cost less than twenty-five cents, including postage. Considerably less than is now spent on the fancy Annual Reports.

Such information would not only equalize the disclosure among the large corporations and the small, one-product budding companies, but would provide a ready source of information concerning such practices as predatory pricing of certain products at the expense of others to promote or maintain a monopoly. Such information could serve as the basis for an injunction by the potentially injured party, which is almost impossible now because there is not sufficient information to cast serious doubt on the pricing until after extensive discovery has been completed. And in the mean time, the victim may not survive the encounter. The publication of this information *alone* should serve as a deterrent to the use of predatory pricing and arbitrary juggling of depreciation schedules as competitive weapons.

There are several aspects of product reporting which should be a natural fall-out. One which must be seriously considered is taxation product by product. At present, the established corporation depreciates plant and equipment as rapidly as possible while it often continues to retain value. Consider, for instance, a fully depreciated keypunch or computer equipment which continues to yield rental income, or railroad rolling stock still in use which is fully depreciated. The established, multi-product corporation, using consolidated accounting procedures, is able to both save on taxes by the depreciation and then later use the higher profits on old equipment to fund entry into new areas, or produce more equipment. This serves as a real *deterrent* to innovation in the large, established corporation and is one of the reasons why the threat of a successful entrepreneur is viewed with such alarm. The taxation based on consolidated figures is another of the inequities between large and small firms.

This is a subject which deserves further analysis, but it is related to the question of why we do not modernize our industries, and the suppression of innovations of value to the public in the interests of protecting highly profitable, fully amortized existing plant and equipment! And of course, the custom of reporting *one* way to the IRS and *another* way to the shareholders should be brought to a fast end.

11. Access to capital for new ventures is another very serious problem area in our economy which is related to our economic health, the quality of life and the opportunities for the individual to develop his full potential. Yet, as the present system exists, obtaining capital for new ventures is very difficult, and almost impossible unless the entrepreneur is willing to give up control of his company.

First, he is told he does not have a bankable situation until he has three or four years of operations, and several years of profits. Then he is told he cannot "go public" unless he first gets private financing and proves the concept. But private financing requires that the entrepreneur give up the controlling interest in his venture. He is *still* allowed a sufficiently large share to make sure he will work like a dog to make the initial record look good, but *not* enough to control policy decisions when the going gets rough.

The reason the so-called sophisticated investors want controlling interest is not just to protect their money or the success of the enterprise, but to be able to make the important decisions on the next round of financing, when the original inventor or entrepreneur's percentage is further reduced. And *especially*, to control when and under what conditions, and with which underwriter, the firm will go public!

The present "regulation" of the financial community is another example of the charade of government regulation of business. The existing laws, as they are interpreted by the financiers and the entrepreneur's counsel, make it impossible for a new venture to find adequate capital on favorable terms. Decisions are made on the basis of the potential value of the *stock*, not in terms of the soundness of the business.

There have been very few great successes in American industry where the entrepreneur became a major force in our economy unless that person was exceedingly wily in his dealings with the financial community. Such a man was Henry Ford, and you will *also* note, that he was also responsible for a *major* breakthrough in our industrial processes as well as a *major social breakthrough* in providing new standards of wages and a car cheap enough for a mass market to afford.

I cannot think of a better example of the potential of the results of the entrepreneur if he is not hampered in his attempts to bring his new product to fruition. But such a feat was *almost impossible* for Henry Ford, and is well nigh *totally impossible* today. One exception may be Edwin Land of Polaroid, but you will note he *started out rich*.

Just take a look at the wording of the SEC rules. The entrepreneur is referred to by the disdainful term of "Promoter", clearly being set up as the *villain* in all subsequent discussions. If we take these laws and rulings and substitute "entrepreneur or inventor" for "promoter", then substitute "moneyed friends of the underwriter" for "sophisticated investor" and "friends, relatives, employees, and customers of the inventor" for "unsophisticated investor" and reread them, you will see how the current laws are being used to the disadvantage of the inventor and the public.

Those close to the enterprise, those most knowledgeable of both the entrepreneur and his product, are not permitted early stock participation, while the friends of the investment banker, who neither know nor care about the venture but only about the speculative possibilities of the stock, are allowed to buy in early. *These* people can do the enterprise no good. The investor's friends, however, are necessary to hold for later, because it is their purchases just after the stock goes public which make the initial after-market.

The stock may have a speculative rise, doomed to fall in the end. But the friends of the broker always get out in time, and it is the little people who are left holding the bag. But meanwhile the entrepreneur has lost control of his company, its day-by-day operations are being warped by the potential effect of every action on the market, and in the debacle of the final stock drop from its speculative high he probably will get fired—long before he can exercise his options or sell his "promoter" stock.

Somehow, this is getting us nowhere, in terms of wasted human talent and the loss of the potential of that new product or service which died in the debacle. Instead of the SEC and the Exchange getting together periodically to wash a few soiled handkerchiefs in public, we must get down to *basics*.

First, we must recognize that talent and innovation should not be suppressed because of lack of capital. We cannot always be fortunate to have a talent like Edwin Land's born into an already wealthy family.

Second, we must recognize that the market, as it is now constituted, IS NOT SERVING ITS OSTENSIBLE FUNCTION AT ALL! Namely, that of providing a source of capital outside the banking system in exchange for equity participation.

Third, we must *change* that situation.

The legal prohibitions against misleading statements on prospectuses are probably adequate to protect the public against fraud. But, when the underwriter is asked *also* to take some liability for the contents of the prospectus, he also demands an unhealthy share of the proceeds of the offering *and* the company for his risk.

We perhaps should set up a new class of public underwriters, to work primarily with new ventures. A New Venture Capital Corporation, if you will. There could be any number of them, and they would have to take all comers. They would have no liability for the contents of the prospectus. They would charge each customer of the company on the same rate basis, but each firm could have a different charging scheme. They would advertise each new offering, after it is approved by the SEC for publication, and limit the investment by each individual to one-hundred shares or \$1,000, whichever is less in money amount. They would be prevented by law from taking any fees in stock, options or warrants, etc. They would make no after-market. With this system for getting new venture capital, the entrepreneur stands a chance of being able to escape the clutches of our present financial institutions, by going directly to the people for his funding.

The SEC should be required to handle these first ventures on an expedited basis, putting aside applications of established firms if necessary. The SEC should *not* be permitted to exercise administrative veto power over a new idea or company by merely stalling until the small firm in need of financing expires.

It is time we stopped pretending concern for the small investor, the caricature of a little old lady about to invest her life savings in a fly-by-night operation, and got down to reality. Most Americans have no opportunity to participate in our free enterprise system, either as an investor or as an entrepreneur, because of the venality of our present financial institutions.

It is time we also cast aside the myth that the small investor must be protected from making unwise investments in unproven technologies. We should recognize

that most Americans have a very substantial amount of discretionary funds, and should be permitted to put at least *some* of it into promising new ventures, at the *opening price*. The man in the street probably has a sounder instinct about how a new product will go than the typical Wall Street sharpies, who is so busy looking for a special deal for himself and his friends that he wouldn't recognize a sound business venture if he fell over it!

12. In keeping with the theme of providing more checks and balances in the system, the Congress should perhaps set up a new office reporting to Congress rather than the Executive, similar in function to GAO, but concentrating on monitoring *law enforcement* by the Executive Branch, rather than the expenditure of funds, as is GAO's normal assignment.

It might be called the General Enforcement Office (GEO), and would monitor not only the enforcement of the antitrust laws by the Justice Department, but many of the other laws written by Congress as well. Some of these are the Equal Employment Opportunity statutes, Consumer Protection statutes, Employee Safety laws, and the Antipollution laws.

Such a group could be used to investigate complaints from constituents and special interest groups in much the same way GAO does now. It would not have to wait for the chance of an appropriate Congressional subcommittee, or get lost in jurisdictional squabbles over which committee should handle it. It could serve as permanent watchdog on the Executive, and in conjunction with private and third party suits, could help assure that too much control of our government never again fell into the hands of a very powerful, special interest few.

SUMMARY

Time is growing very short. The pace of man's rising expectations is accelerating as rapidly as the acceleration of his new technology. The Negro may have been willing to wait 100 years before demanding to be integrated into the mainstream of our economic life. But I predict women will not wait another *five*! And the kids have already gone to a spiritual Galt's Gulch to wait to see if we can pull ourselves together and salvage what is best in our civilization before it crumbles around us!

A radical change will come, a new dedication to human values and Participatory Democracy. And it may come very fast! Or it may be suppressed ruthlessly, as the potential disruption of the established order of things which it surely is! Many established institutions will have no further place, and those who have profited from them will have to find other activities.

The change is inevitable, the only questions are the timing, and whether the change will be peaceful or violent. I believe that this Subcommittee has the power, right now, to begin the roll-back of the current trend toward economic concentration which is strangling our economy, ruining our foreign relations and alienating our people. This would go a great distance towards answering the questions of who really runs our government, for whom are the laws written and enforced, and whether the dignity and well-being of man will be the guiding principle of our political institutions.

The choice is yours.

Senator HART. Thank you, Miss Van Horn.

There is an enormous amount in those few pages.

Next we welcome an individual who has to assume some responsibility for the level of public knowledge or ignorance as to economic problems in this country. He is Mr. Isadore Barmash who is a financial writer for the New York Times and he has undertaken, I think effectively, to raise the level of understanding of one aspect of corporate America in his book, "Welcome to Our Conglomerate—You're Fired."

Mr. CHUMBRIS. I wonder if the doctor could provide the subcommittee a sample of his book?

Senator HART. I can loan you one.

STATEMENT OF ISADOR BARMASH, AUTHOR OF "WELCOME TO OUR CONGLOMERATE—YOU'RE FIRED"

Mr. BARMASH. I have got one. I always bring a copy of the book, Senator, because sometimes I forget a little bit about what I wrote in it, so it refreshes my mind.

I am happy to be here and to participate in this discussion. I want to point out that my appearance is directly the result of my having written a book on conglomerates and their effects rather than as a member of the business and financial news staff of the New York Times.

During my 7 years on that newspaper and for more than 15 years before that as a writer and editor on business subjects, it has been increasingly brought to my attention that one major effect of corporate mergers is the uprooting, the dislocation, the transfer, and the discharge of people with all the personal problems that this involves; and nowhere is this more prevalent than in mergers or acquisitions involving conglomerates.

In their heyday in the 1960's and even in the more reduced number of conglomerate mergers since then, the goals of such consolidations were to provide a corporate and productive synergism, an earnings and assets leverage, and a building toward greater market share. As is well known by now, many such mergers fell short of reaching their goals; but the effect on people involved was great and lasting.

There are so many examples of this that any degree of selection can hardly tell the story. Perhaps the best way is to break the people effect down to three types: top management, middle management, and rank-and-file.

When the boom is lowered on top management, the individual is better off financially than in the case of those on down the ladder but the personal trauma may be even greater due to the height of the fall. Three months after Norton Simon, Inc., was formed from the three-way merger in 1968 of Hunt Foods, McCall Corp., and Canada Dry Corp., there was a series of personal upheavals. James Fixx resigned as editor of the troubled McCall's magazine. A month later Henry Bowes left as McCall's president and some months after that William McKenna resigned as chairman and chief executive officer of Hunt Foods.

In May 1969, John C. Lobb resigned as executive vice president of Colt Industries. He had been president of Crucible Steel Corp. the year before when it was acquired by Colt. Said Mr. Lobb after announcing his resignation, "When duplications are eliminated, the company that does the buying usually decides that its own guys are better than the fellows in the acquired company, whether they really are or not."

Sometimes the top man in the acquired company just gives up after a merger simply by being forgotten by the company that bought him. This happened to Robert Krausz, a Californian, who sold his firm, Rantec Corp., to Emerson Electric Co., St. Louis, and found that the remoteness of subsidiary from parent company involved lots of redtape, the constant need for approvals from on high, and continuous and frustrating communication. And Rantec's role declined in the order of things as Emerson grew.

So Krausz quit, as did Stanley Daziel, who sold his company, Microwave Electronics, to Teledyne Corp., a conglomerate. He found that supervision from Teledyne kept changing; Microwave found itself saddled with a charge to its capital account when Teledyne bought a building that the subsidiary had leased and put the \$2 million charge on Microwave's books.

But since it is obvious that the top executive is better equipped to bounce back from a dislocation, let's look at the man in middle management. He probably suffered more.

For example, when American Motors Corp. sold its Kelvinator Division in July 1968 to White Consolidated Industries, a middle-management executive, Matthew P. Biedron, then 51 years old, had a \$20,000-a-year job after 34 years in the refrigerator division. One day he was handed his pink slip not long after the acquisition by White Consolidated and his plans to retire and to send his sons to college vanished. For weeks he walked around in a state of shock. He lost 15 pounds. Aside from his age, his main problem was that he didn't know how to go about looking for a job after all that time.

But he learned and he was lucky. He eventually found one which paid a slightly higher salary.

The list of middle-management dislocations is almost endless. These people get it in the neck often because they represent a needless duplication of jobs in the merged companies. The effects can not only mean a severe loss in income and effect on the standard of living but also turn a healthy man into a sick one.

As the Wall Street Journal put it in discussing the effect of the White Consolidated takeover of the Blaw-Knox Co., Pittsburgh:

Then there's the "wounded list." In the months immediately following the takeover, one executive developed a bleeding ulcer, another had a heart attack and a third had a stroke. A fourth executive experienced backaches, insomnia and a sharp rise in blood pressure because of tensions surrounding the change of ownership.

But even the middle-management man is better off than the production worker on the assembly line, the stockroom worker, or the clerk in the office who become the human casualties of corporate marriages.

Let's get back to the White Consolidated acquisition of Kelvinator. Fewer than 200 of the 600 employees at Kelvinator's Detroit plant were retained. Most of the rest were either transferred or retired but about 100 were fired.

When Borg-Warner Corp. sold its Norge division to the Fedders Corp. in mid-1968, 15 top Norge executives were let go but about 55 of the Norge headquarters staff of 250 were laid off.

One of the best examples of how a company sale can hit large numbers of people occurred in the previously mentioned acquisition of Blaw-Knox Co., a Pittsburgh producer of heavy equipment, by White Consolidated Industries of Cleveland. When the word was let out of the takeover, W. Cordes Snyder, Blaw-Knox' president, got on the public address system and promised, "Your job and mine will continue as in the past."

It was, it turned out, an empty promise. Within a year the concern's headquarters staff of 230 people was reduced to 40. Thirty of the 65 supervisors resigned, or were fired or retired. About 30 were transferred to other White offices. Snyder, the optimist, himself resigned.

And the vice presidents began straying away. The operating divisions were transferred to new locations and a program was started involving other economy cuts and directives issued to managers to discharge and transfer other employees.

Is it business' responsibility to concern itself with the preservation of its human assets? As a journalist, I say it is. Nothing is more valuable in any company, and therefore to society, than the people who work, no matter at what level.

I might add that in recent days I have been involved in a question of corporate responsibility to social problems, challenges; and the pleasure many times are far from salutary. There is a lot of criticism about corporate need to respond to the social problem. But so far I don't think business can be very proud of it and I don't think the time is much further off when corporate entities will be as much questioned on their financial—not just on the financial balance sheet but sort of on their social balance sheet, too. And if business doesn't start financial synergism and to the physical assets. But this is beginning to that top management will lay down a dictum to its executives. We must recognize the problems of the minority group people. We must bring in minority workers and promote them.

We have got to try to help in the urban problems, build housing, and that is it. And then, when the implementation is required, everything falls apart because midmanagement people are primarily obligated to implement the profit goals. And there has been exceedingly little relationship expressed by top management between its social needs and its profit goals. And I think that is where one of the big problems is.

The simple fact is that too many mergers were generated without either enough consideration to the human assets and too much to the financial synergism and to the physical assets. But this beginning to change slowly because top management, even among the financially oriented conglomerates, is realizing that there has been a lot of human waste in its frantic groping toward more and more growth. But real advancements along these lines may take some time.

Senator HART. Let me say that this morning we heard a coal miner from West Virginia describe the failure as he saw it of the major industry in his State to understand and attempt to respond to the needs of the miners, coal miners; and now you tell us that you don't have to be the lowest man on the totem pole to find that whatever top management may want, corporate responsibilities even to its management brethren is sometimes very shortsighted.

Mr. CHUMBRIS. But, Mr. Chairman, on the other hand, Senator Hruska was bringing out that same point in a different way in the hearings yesterday. The witness, in effect, stated: Let's have free trade; it knocks out a few shoe workers in Massachusetts, that is the way the country should run; or if it knocks out the meatpacker and the cattlemen in the Western States, that is the way it should run, because that is the best way for the public interest. You can turn it around. The same thing that you are saying now and what the coal miners said today happens to American businessmen every day; if they don't have this protection of either tariff, and their employees—

Senator HART. I think we can get a discussion going about the difference between the P. & L. balance sheet and the social balance sheet.

And let's see if we all can't better appreciate the individual problem caused by changes for what they are and then evaluate with a thought to the social cost, not merely the profit problem.

Mr. CHUMBRIS. I think Senator Hruska was referring to the social problem of the workers in New England as far as shoes are concerned, the textiles of the South, the farmers in Nebraska, and the cattle people in Nebraska.

Senator HART. I don't want to be understood as criticizing the automobile manufacturers for having driven off the buggy makers; I don't go that far.

Our third panelist is a gentleman who has counseled this subcommittee on other occasions, and always to our benefit.

We welcome him again. He is Dr. W. G. Shepherd, who is a professor of economics at the University of Michigan.

Professor?

STATEMENT OF WILLIAM G. SHEPHERD, PROFESSOR OF ECONOMICS, UNIVERSITY OF MICHIGAN

Mr. SHEPHERD. I have been asked to discuss what we know about job discrimination by business firms, especially those large ones which would be affected by a program to reduce monopoly power.

It is logical to expect companies with market power to discriminate more sharply against blacks and other minority groups than competitive firms and society in general.

Public-spirited firms which risk stockholder disapproval to take affirmative action are likely to be the exception.

It is equally clear that large firms, especially in industry, finance, and utilities, do have the scope and the resources to reduce the national problem of employment discrimination drastically, if only they would do it, or could be induced or made to do it.

What are the prospects? Will reducing concentration help? What else needs to be done?

We are only beginning to get reliable answers. I will sum up some of them as best I can: First of all this country has been remarkably late in gathering the facts of the matter. Only since 1966, has the Equal Employment Opportunity Commission, or anyone, had full reports from companies. Oddly enough, these new statistics may constitute a defeat for the public interest; these facts now exist, but they are held tightly secret under census rules. Therefore, they stand in the way of any other governmental attempt to gather the data and make them available publicly.

Even so, the relegation of blacks to inferior jobs has been well known for a long time. The exclusion of Jews from the upper management of most industrial firms has been evident. That women even are exempt primarily in managerial women's jobs has been known for generations.

Since 1966, things have come into slightly clearer focus, thanks mainly to studies by the EEOC. Thus, blacks are virtually absent from white-collar jobs in mining, lumbering, paper, oil, metal products, intercity transport, pipelines, and finance. Their white-collar participation rates are lower in large firms than in the rest of the

economy. The Bell System in particular appears to have especially rigid barriers, from top to bottom.

The hiring by some firms of small armies of black blue-collar workers, and in some cases women in blue-collar jobs, says virtually nothing about true equality of opportunity in such companies. Public policies which might attack discrimination, be it Government purchasing, utility regulation, or giving the EEOC even minimal enforcement powers, have been weak or empty.

Public financial support for black businesses has been slender and outside the mainstream of U.S. business, sheer tokenism. Virtually nothing has been done via financial markets.

And since company data on minority employment are kept hidden, there is not even the gentle light of public knowledge on this dark corner.

There have been strong research hints that market power does sharpen discrimination against blacks, but we lack precision about the specific influences at work. There are other minorities, too—women, Mexican-Americans, and others—whose status also should be systematically studied. We know that the management of big business is basically a white man's game.

In which specific parts, if at all, are there hopes for opening that game up in our lifetimes?

Some recent research of my own gives some answers to this. It uses the EEOC data on a special basis from about 270 of the largest industrial banking and utility firms during the last 5 years. With this it explores why some of these companies hire blacks or women at much higher rates than do others. The research is new in covering firms by name rather than as anonymous companies X and Y, also it deals with policies toward women as well as some of the more traditionally recognized minority groups. The share of minorities in upper white-collar jobs—that is, officials and managers, professionals and technicians—are used in this research as the test of openness of company hiring policies. These positions are also critical in the long run for opportunity to advance, to manage, and to create.

The results are not final in any sense. They are exploratory and I will only try to report what seem to be the main outlines.

As a group, big industrial firms are token employers of blacks and women in positions of responsibility, as the table at the end of the statement indicates.

In 1966, 5 years ago, a great many of these firms had literally no male blacks or women at all in what we would regard as the "good" jobs. By 1970 nearly all of these firms did have at least one male black at those levels and the average rates had nearly tripled.

This shows, first, that rapid rises are entirely possible; but it still amounts to tokenism. The role of male blacks is still just over 1 percent, a mere sprinkling.

Also, many black managers, or so-called managers, are in fact far down the line, managing other blacks as foremen or something comparable. If all the 230 industrial firms were as open as the best 10—and those best firms' rates are not very high either—the national volume of executive hiring of blacks would have been up by 42 percent, by nearly half. The recent rise, 1966 to 1970, would have to con-

tinue without tapering off for more than 60 years before it reaches the present population share of blacks.

For women the picture is rather bleaker. They are present in the labor force at triple the rate of male blacks and they are not less well trained, on the whole. Yet there are even less of them as managers in big businesses than black males. Their role in large firms actually dwindled during the last 5 years, and it is now far less than in the Nation as a whole.

Their higher shares in banks and utilities are mainly an illusion. Most of these women are at lower levels supervising small armies of other women—bookkeepers and so forth.

Further analysis shows that indeed most of the upper level hiring of blacks and women is related to lower level hiring of the same groups. This means that minority hiring often offers only the dead-end opportunity to manage other minority members and no more. For women, even this narrow opportunity, which confines themselves almost entirely to women's goods firms such as cosmetics, drugs, textiles, publishing, and so forth, even this opportunity is weak.

Heavy industry on its part is almost exclusively white male at the upper levels.

This research also has tried to identify the best and worst individual company performers, so that policy agencies, if they ever got the power, could focus their actions where they are needed. For example, in the estimates of the worst discriminators against women, IBM, General Motors, Xerox and General Electric, Eastman Kodak, Ford and Chrysler head the list and in themselves they account for a good share of the whole problem.

The main lesson here is that blacks and women are at token levels of participation now in big business, far below what is desirable and possible. And the prospects for equal opportunity are matters for the future, at least decades for blacks, and probably never—I repeat never—for women.

Tokenism, after all, takes care of the main external pressure, the need to have some minority members around. What real constraint and incentive will there be to go beyond that token sprinkling? Still, rapid changes can occur where there is motivation. The resources are there and the supply of minority job candidates is typically quite adequate. The exclusion is, in fact, costly to these companies since exclusion keeps out superior potential managers, managers with the potential to develop.

For most companies what apparently is needed is external pressure, enforcement, or specific incentives. Voluntarism apparently leads most large enterprises only to tokenism, at the very most. That is logical and it is a fact.

There are several policy lessons in all this: Competition is an important general discipline against racial and sex prejudices and barriers. So a program to increase competition in a series of major industries would be valuable for this purpose alone, as well as for others.

Producer-goods industries, heavy industry, specifically offer much room for improvement, to put it politely. My analysis singles out others, but under the secrecy rules I could not be more precise than to mention their names. I hope you see that this is just one effect of the preposterous secrecy rules which suppress these facts.

Still in any case, greater competition alone will not quickly solve this sort of problem. We are dealing with habits of a lifetime, with customs and traditions which have to be strained hard and pushed beyond the breaking point before they will be changed.

Specific enforcement incentives will also be needed. The EEOC should at long last be given powers of enforcement, as Congress is considering this very week. At present its enormous task and jurisdiction, its thin resources, and its empty powers add up to a cruel and harmful mockery. The hiding of discrimination data under ancient census secrecy rules should be stopped. It is inexcusable to suppress data so suffused with the public interest, whose release would harm no valid business interest. They are probably roughly as important to the national purpose as the Pentagon Papers.

A more direct program is probably needed, in addition, to promote real business opportunities for blacks, women, and other minority groups. The training of these new managers could be done much more efficiently by a specific training and placement enterprise than by handing out small business loans to a few of them. Such a program would use first-class company and academic experts to train new managers with direct experience. It would involve the best talent teaching the best potential talent.

An excellent source of finance for such a program would be a direct tax on large firms and banks in proportion to the gaps in their minority hiring and managerial jobs. For example, an initial target for each large firm would reasonably be 4-percent participation rates each for black males and for women in upper white-collar jobs. The tax on hiring rates below 4 percent could be, say, \$500 per year per minority person not hired up to that target rate. This is a matter of many thousands of highly qualified people. The tax could be alined with scientific estimates of the discrimination coefficient to reflect the social cost inflicted by discrimination. The target would naturally be raised gradually over time as we raise our national goals. And also it would be designed to allow for special conditions in some companies' offices which are farther away from urban centers.

Such a program would penalize discrimination and it would apply strong incentives for improvement. And, of course, it would finance the learning process itself to solve the problem. It would be self-financing; it would be precise and eventually it would be self-liquidating, which is no small virtue for a new Government program.

The present programs for black capital system, in my opinion, are expensive paternalism on a small scale which can do no more than deal at the periphery of the problem. It is almost as if they were designed to minimize minority access to the real core of American capitalism.

Now, until we get effective actions of some sort like these, which may be never, we can hope that increased competition will at least help. Ultimately, after all, we must rely on it rather than specific programs to open up job and business opportunities in the mainstream of this economy. It is easy to blame our leading companies for too much, but in this area they are clearly doing much too little.

(Prepared statement follows. Testimony resumes on p. 194.)

STATEMENT OF WILLIAM G. SHEPHERD, UNIVERSITY OF MICHIGAN

I have been asked to discuss what we know about job discrimination by business firms, especially those large ones which would be affected by a program of industrial deconcentration. It is logical to expect companies with market power to discriminate more sharply against blacks, women and other minority groups than do competitive firms and society in general. Public-spirited firms which risk stockholder disapproval to take "affirmative action" are bound to be the exception.

It is equally clear that large firms—especially in industry, finance, and utilities—have the scope and resources to reduce the national problem of employment discrimination drastically, if only they would do it, or could be induced or made to do it.

What are the prospects? Will reducing concentration help? What else needs to be done? We are only beginning to get reliable answers. I will sum up some of them today, omitting footnotes and fine points.

This country has been remarkably late in gathering the facts of the matter; only since 1966 has the Equal Employment Opportunity Commission had full reports from companies. Strange though it may seem, these reports are secret under Census rules. Yet the relegation of blacks to inferior jobs has been well known. The exclusion of Jews from the upper management of most industrial firms has been evident. That women are kept primarily in menial "women's" jobs has been known for generations.

Since 1966 things have come into slightly clearer focus, mainly via E.E.O.C. studies. We know more about where discrimination is sharpest, by industry, job type, and location, but not by companies or plants. Thus, blacks are virtually absent from white-collar jobs in mining, lumbering, paper, oil, metal products, inter-city transport, pipelines, and finance. Their white-collar participation rates are lower in large firms than in the rest of the economy. The Bell System appears to have especially rigid barriers. The hiring by some firms of small armies of black blue-collar workers says virtually nothing about true equality of opportunity in such companies. Public policies which might attack discrimination—via government contracting, utility regulation, or giving the E.E.O.C. even minimal enforcement powers—have been weak or empty. Public financial support for black businesses has been slender and outside the mainstream of U.S. business. Virtually nothing has been done via financial markets. And since company data on minority employment are kept hidden, there is not even the gentle light of public knowledge on this dark corner.

There have been strong hints that market power does sharpen discrimination against blacks, from studies by Gary Becker, myself, and now William Comanor. But we lack precision about the specific influences at work, and there are other minorities too. Which factors should policy focus on? Dominant firms? Producer-goods industries? Firms which already have high minority rates in blue-collar jobs. We know that big business is now a white man's game. In which specific parts, if at all, are there hopes for opening that game up?

My latest research gives some answers. It uses E.E.O.C. data from about 270 of the largest industrial, banking and utility firms during 1966-70. With this it explores why some of them hire blacks or women at much higher rates than do other firms. The share of minorities in upper white-collar jobs—officials and managers, professionals and technicians—are taken as the test of openness of company hiring policies. I can discuss, of course, only general patterns, not specific firms.

As a group, big industrial firms are token employers of blacks and women in positions of responsibility (see Table 1). In 1966, a great many of these had literally no male blacks or women at all in the "good" jobs. By 1970, nearly all had some male blacks, and the average rates had nearly tripled. This shows that big rises are entirely possible. But it still amounts to tokenism, with male blacks at just over 1 percent. Many black "managers" are far down the line, managing other blacks. If all the 230 firms were as open as the best 10 (whose rates are not very high), the *national* volume of executive hiring of

blacks would have been up by 42 percent. The 1966-70 rise will have to continue unabated for more than 40 years before it reaches the present population share of blacks.

For women, the picture is bleaker. They are present in the labor force at triple the rate of black males, and are not less well trained on the whole. Yet there are even *less* of them as managers in big businesses than black males. Their role in large firms actually dwindled during 1966-70; it is far less than in the nation as a whole. Their higher shares in banks and utilities are mainly illusory; most are at lower levels, supervising other women.

Further analysis shows that, indeed, most of the upper-level hiring of blacks and women is related to lower level hiring of the same groups. This might mean that firms have unified policies. It probably also means that minority hiring often offers only the "opportunity" to manage other minority members—and no more. For women, even this narrow "opportunity"—which confines them mostly to "women's goods" firms—cosmetics, drugs, textiles, publishing—is weak. Heavy industry is almost exclusively white male at upper levels.

Some of the most powerful firms do better than average in minority shares (though the degree of responsibility is unknown). Yet none of the firms with highest market power among the best performers, and half of the best performers were well below the leading-firm range in their industries. For women, especially, high market power tends to mean discrimination.

There are a host of further refinements and city patterns, which are explained in the full research report. We have also identified the best and worst company performers, so that policy agencies can focus their actions where they are needed. The main lesson here is that blacks and women are at token levels of participation now in big business, far below what is desirable and possible. Prospects for equal opportunity are a matter for the future, at least decades for blacks probably never—I repeat never—for women. Tokenism, after all, takes care of the main external pressure: the need to have some minority members around. What real constraint or incentive will there be to go beyond a token sprinkling?

Yet big rapid changes can occur, where there is motivation. The resources are there and the supply of minority job candidates is typically quite adequate. For most firms, what apparently is needed is external pressure, enforcement, or specific incentives. Voluntarism apparently leads most large enterprises only to tokenism. It is logical, and it is the fact.

There seems to be several policy lessons in all this. Competition is an important general discipline against racial and sex prejudices and barriers. So a program to increase competition in a series of major industries would add to fairness, opportunity and social cohesion, as well as to economic efficiency. Producer-goods industries especially offer much room for improvement. My analysis singles out others, whose names of course I cannot give. Yet greater competition alone will not quickly solve the problem. Specific enforcement and incentives will also be needed. J. K. Galbraith and Lester Thurow have proposed that firms be required to meet specific targets. In addition, the E.E.O.C. should at long last be given powers of enforcement. At present its enormous task, thin resources, and empty powers add up to a cruel and harmful mockery. The hiding of discrimination data under ancient Census secrecy rules should be stopped. It is inexcusable to suppress data suffused with the public interest whose release would harm no valid business interest. They are probably as important to national purpose as the Pentagon Papers. A really direct program would make firms pay for their discrimination, in proportion to the social cost it inflicts. My studies show how much each firm falls below reasonable target levels for minority employment, all things considered. This gap could be taxed and the funds used to train minority managers. A program of this sort would be self-terminating and would, like no other, apply direct economic incentives *and* generate revenue.

Pending effective actions like these—which may never be tried—we can hope that increased competition can help. Ultimately we must rely on it rather than specific controls to open up job and business opportunities in the mainstream of the economy. It is easy to blame our leading companies for too much. But in this area they are clearly doing too little.

TABLE 1.—PARTICIPATION RATES OF MALE BLACKS AND FEMALES, IN LARGE INDUSTRIAL, BANKING AND UTILITY FIRMS, 1966 AND 1970

	Year	Officials and man- agers	Profes- sionals	Techni- cians	Combi- nations of the 3 white- collar groups	All em- ployees
All industrial firms:						
Male blacks as percent of all.....	1966	0.51	0.49	1.45	0.71	8.70
Males in each group.....	1970	1.47	1.42	3.08	1.78	10.52
Females as percent of total.....	1966	1.51	2.23	7.38	3.26	17.09
Number of employees in each group.....	1970	1.42	4.53	7.49	3.82	17.72
Banks:						
Male blacks as percent of all.....	1966	.46	.95	3.75	.63	4.64
Males in each group.....	1970	1.74	3.73	10.81	2.65	10.76
Females as percent of total.....	1966	9.96	13.86	27.75	12.70	53.70
Number of employees in each group.....	1970	13.65	23.82	22.20	16.10	60.02
Utilities:						
Male blacks as percent of all.....	1966	.24	.49	.74	.45	3.73
Males in each group.....	1970	.84	1.33	2.89	1.92	6.32
Females as percent of total.....	1966	11.21	7.00	5.15	7.81	22.75
Number of employees in each group.....	1970	6.40	9.24	3.82	6.56	21.66
Total labor force:						
Male blacks as percent of all.....	1966	.75	.88	2.29	1.08	8.17
Males in each group.....	1969	1.30	1.40	3.40	1.71	9.20
Females as percent of total.....	1966	9.20	13.20	27.80	15.86	33.96
Number of employees in each group.....	1969	10.03	23.10	25.01	13.74	33.92

¹ Latest available data at this time are for 1969.

Source: U.S. Equal Employment Opportunity Commission, various compilations.

Senator HART. Professor, you say that big business is now a white man's game—and that describes baseball until recently. Now, the farm system for most big businesses are your university schools of business. You say we ought to be careful about blaming big business for too much. If the farm system is discriminatory, big business isn't going to be able to find the talent.

To what extent have admission standards, quotas, so many women, so many blacks, and some Jews, into business schools contributed and continue to contribute to at best tokenism in so much of big business?

Mr. SHEPHERD. Could I respond to that in several elements?

Senator HART. It sounds like I am criticizing you; but I am sure you have nothing to do with the admissions in Michigan.

Mr. SHEPHERD. Economists are generally regarded by the faculty members of business schools as snobs who are much too critical of business schools. So I want to choose my words carefully.

Most business schools, as you may know—Michigan being an exception—are changing themselves into schools of administration, public as well as private. And so this move, I think, will tend to alleviate some of that problem and it will provide a setting in which minorities are more likely to be taken in and more likely to be trained and available.

But business schools are probably not important as a cause of this problem. At least, I wouldn't want to overstate it, because business schools have tended to do what the companies would like them to do. Where there are no positions in companies for the blacks and women to that extent there will be little pressure or inducement to draw them into the business schools. They reflect the prevailing white man's culture.

But the business schools are not all that important among the sources of entrepreneurial talent for the companies. They would like to think they are, of course, but their record so far is less impressive.

Now, taking the analogy to farm systems, the farm systems for big corporations will basically have to be not the business schools, but rather the lower reaches of these companies themselves. Most managers of larger corporations now have been with the company for many years testing out their talents in subsidiaries or branches at the lower levels and rising within them. And so I think the analogy is quite clear. I am glad you suggested it, that there is the farm system that has to be opened up. Luckily it doesn't have to be created anew. In the first place, it is there. In the second place, it is squarely under the ultimate control of management. So it is again, I think, on company management itself that pressure needs to be applied.

And as I have indicated, things can happen. They haven't happened on a vast scale. But still, looking ahead from 1966, and knowing how bare most companies were of black "managers," one would have found it hard to believe that the black proportion could have tripled in some of these categories, even up to just 1½ percent.

Now, as we know, many of these people are simply sitting by the front door or are mired way down the ladder. Nonetheless those were not trivial changes and if they can occur there are grounds for expecting that more changes can occur.

SENATOR HART. Miss Van Horn, you heard Dr. Shepherd give us that extremely gloomy prediction about women never achieving other than tokenism. For blacks he said decades. For women "never." You have worked with private enterprise.

How do you react to what Dr. Shepherd said?

MISS VAN HORN. I think it is definitely going to change and it is going to change much faster than Dr. Shepherd imagines. The ladies are very ructious and very restless and I think for good reason.

One of the terrible problems in American industry is that women are confined to the secretarial and clerical ghetto, and I think one of the ways that we will get rid of that is partially through automation. There is no great rush for men to integrate with women in the secretarial labor force. And when you say, well, we have to integrate women in all levels of management, the first response is, who will do the typing?

Maybe we will let the computers do the typing; I don't know.

But I think there is a tremendous waste of talent, human talent. Women are spending not necessarily all of their time, but much too much a portion of their time with routine clerical work, people who could be doing much more creative things. It is a terrible shame and I think the ladies are not going to put up with it much longer.

MR. SHEPHERD. These are matters of prediction and, of course, I may not be as close to it as you are.

One matter of perspective goes back to the 1920's. One might have been optimistic then because in the 1920's there was a new well-recognized style of professional life that was being followed by many women college graduates. They did not get married and they committed themselves to a career. In fact, one of the reasons why women's representation in upper big business is shrinking is that some of those people are now retiring. So I think that to be optimistic, you have to predict that there will be a renewal of the 1920's trend, and that it will persist and persist.

It will have to proceed well beyond the small younger group of active, talented, aggressive women who clearly are in line now for better opportunities.

In addition, the next group—the 20 percent of the women who might retire to domestic motherhood or instead might go on to some combination of it if only given the chance—is the real testing ground for equal opportunity. Given the present difficulties of getting any kind of serious pressure or incentive programs toward big companies going, pessimism arises I think that is thoroughly justified.

Senator HART. I take it we agree that many efforts and many pressures have to be applied. And I agree with Miss Van Horn that the women are restless out there and I agree it's for good reason. Yet, I am not aware that they have gone to a self-help method that seems to offer considerable problems.

Blacks were restless out there for good reason and among the pressures that applied, and in many cases and in many regions was successful, was a black boycott. Now, the blacks in percentage to the population are 16 percent, I believe. Women are more than half. And they do much of the buying. And, it seems never to have occurred to them that if they want to put their restlessness into harness, that they could really put some muscle into it.

Mr. BARMASH. I think the situation is definitely changing and it might please Miss Van Horn to know that the First National City Bank of New York named two women vice presidents this week. And these are not the first two they have. R. H. Macy has four women vice presidents, including, I will have you know, one senior vice president. New York has quite a few of them. I am more familiar with New York than I am with Chicago and L.A. but I think you will find that happening there, too. And I really think, just from my own experience, that women are coming up in business; they are more aggressive and their education is equal in many cases to that of men. And on Wall Street, for example, you see women security analysts all over the place and they are getting up there, I think. Merrill Lynch now has a female security analyst who is a vice president, who has a lot of respect from the financial community. And I think it is changing, slowly, perhaps.

Senator HART. Dr. Shepherd's figures, though, remind us of how far behind we start.

Miss VAN HORN. I would like to make a comment about your remarks, Senator Hart.

As I recall the list of companies that Dr. Shepherd considered the big offenders, they were the automobile companies. And women, especially single women who have jobs, buy a lot of cars. And there was also IBM and Xerox, as I recall. And IBM sells a lot of electric typewriters to secretaries and Xerox sells a lot of copying machines and paper. I think your question of economic sanctions is quite an interesting one and certainly the statistics from EEOC should be published. Nothing would do more to shake those companies up than publishing statistics, because the potential for the kind of thing you were suggesting is definitely there if we can get the statistics out in the air where they can be observed.

Senator HART. I was going to suggest that, perhaps, the employment of minorities and the employment of the majority, meaning women, at this moment in history, given the limitations on the number avail-

able with skills equivalent to the white males' skill, that that availability is still not fully adequate. If a management made a conscious decision that we have 10 slots here which require a level of skill of 100, and there are 10 white males, each of whom performs at the level 100, but there are 10 black males that perform at the level of 90, that is the best we can find, is this the kind of social cost, Mr. Barmash, that you are suggesting we should ask business to absorb?

MR. BARMASH. I think that is right on the button, Senator. I think that you have to make an investment in people. I think it is related to long-term investment. There are many companies today, not just in New York, but elsewhere, where—that have jobs that are open with skills that cannot be supplied. And training programs, from what I can figure out, do have some discrimination. There are some large companies that have in training as many as 1,500 young people and I would suspect that there is some sort of a quota system in these training programs.

Yes, I think that would be part of this matter of having a good social balance sheet and I think it can be very much related to the financial balance sheet.

What I am trying to say is that since obviously corporate efforts to help society have not been overwhelmingly successful that a good reason for it may be that it has been done in a sort of offhanded way. Whereas if it could be tied to profits, it might just work.

There are a number of outfits that are already doing this. Citizens and Southern National Bank in Atlanta has a subsidy program for housing for minority groups. It also has unusually liberal lending privileges for black entrepreneurs and various other related activities and they have been making money on this program and they are convinced that one way that they can sustain a program of helping society is to relate it to the profit motive. And while this may seem a little shocking to some people who think that you should never relate charitable efforts or philanthropic efforts to profit, the fact remains that it hasn't worked the other way. And there is an outfit now in Newark which is one of five subcontractors on an urban renewal housing project, and all five developers are profitmaking companies. And they have set up special divisions to just handle the subcontracting; the laying of carpets and the painting and air conditioning and so on, just for this large new development in Newark. And I think this sort of thing is the other side of the pragmatic social activity; and I think it is feasible. But, unfortunately, most businessmen and public corporations are so involved in their own market growth, their own profit leverage, that—it is not that businessmen are insincere, it is just that they haven't given it the kind of priority that they should. And I have been observing the species long enough to know that there is one good way of getting something done, and that is to relate it to profit.

So all I am saying and this has been said before—I am not making any startling statement—that if helping blacks to seek jobs will be done in such a way that it is done with good training, of skills, and the need for skills, and the characteristics of the trainees are related, if housing is required, and a company either wants to invest in it as an investor or wants to be a supplier or whatever, and it is done with a very level eye as to return on investment, I think this could well go a long way to solving some of the social problems.

But it takes some thinking and it takes some doing. And there are some companies that are already on the ball this way. It is just that they are probably a little bit more enlightened; they have stubbed their toes on this business and they know that it has to be done in a practical way; otherwise you are going to see the current hue and cry and public distrust of business growing and growing. It will just continue and mount and so I think this is one way in which business can be constructive without being idealistic and foolishly idealistic which has been one of the big problems.

Senator HART. Perhaps in your own experience you could affirm or disagree with this, Miss Van Horn, or perhaps Dr. Shepherd.

Mr. Barmash, let me paraphrase and inquire if this is correct as to what you said. There are certain businesses where you find an understanding of our failures to employ women and blacks and give them an opportunity for advancement and so on. And when the boss sends the word out that we have got to do something, we have got to improve our performance on minority hiring—this company has to help solve some of our urban problems, perhaps go into the construction of housing—that the message gets lost at the middle and lower levels. Is that the point you make? If it is going to be made to work you say it requires that the message get through, I take it, not because they disbelieve the chairman of the board, but when they review the performance of that middle level fellow they don't ask him how he made out on housing and job opportunities. It is again an emphasis on the profit and loss results in that segment of the business that he is involved in?

Mr. BARMASH. Rather than an evaluation of their social attainments; but that is exactly what I meant.

Senator HART. It is desirable that business operate with that added second balance sheet. I have never been in business, but I can just understand how tough it is. I can guess how tough it is for a fellow that has to go to a stockholders' meeting to say, we are earning 10 cents less this quarter but we have 19 percent more women working for us. That is pretty harsh.

Mr. SHEPHERD. My stragem of taxing the failure to hire openly would put it directly into profit and loss accounts. Nobody in management would have to ask how many blacks and women there are; it would simply become rational to get them in. The opposite method of putting it into numbers of bodies, or any kind of spiritual or moral language, which branch managers have to treat specially, that, of course, goes right against the grain. The fundamental point is that discrimination causes a social cost which can be levied on the companies. Then it will become a matter of the profit and loss behavior and of brisk action.

In addition, I would not agree that it is a matter of charity on the company's part. In the long run these companies are denying to themselves superior talent, so that they are run more poorly than if they hired fairly. This can be hard to see in the short run, because for any given position right now there may be no blacks or women at the moment that happen to be precisely qualified. So in the short run, one can often say that there aren't any candidates available.

What is crucial is that most business skills are learned on the job, once you are let into the management club. Much of management

"skills" are strictly acquired skills that can't be gotten beforehand: skills of interpersonal relations, company history, how the land lies, who the important suppliers and potential customers are—in short, an awful lot of folklore. In that sense, most of the jobs in business could easily be filled by a large variety of people who just didn't get hired in the beginning. This kind of acculturation process could absorb much larger numbers of blacks and women in the long run than it now does. It takes a long view on the part of management to perceive this. But that is supposed to be precisely their strong point: the long view. If we are going to have General Motors with us for the next 50 years, in some form or forms, then if they fail to see it that way, it should be made explicit for them in their own interest. This is not a matter of charity. It will make them, and the rest of the largest group, better run in the long term. Nobody, I think, is currently worried that American business has too much talent in it. In fact, there are some major industries—especially in heavy industry—where they can use lots more talent. And these appear precisely to be the worst discriminators in choosing managers.

Senator HART. It would help this effort if we could discover a really clear example of how self-defeating the rejection of a particular group was to business, an example as clear as that which did develop in baseball. Nobody suggests now that baseball in the 1920's would have been weaker. Everybody agrees that you would have had better performance in the 1920's if Jackie Robinson had come along in 1918, or had been permitted to come along. Does anybody know of a firm or activity that decided to make it more than just a white man's game, and which has been dramatically successful as a result of that?

Mr. SHEPHERD. I think the data which now exist and are classified secret by the census are crucial to this. The census should be a device for getting and spreading important social information. Instead, the data are there, but we simply can't use it. This committee can't get it, you can't get it, the public can't get it. I don't think we can get any kind of reliable answers on these issues until we break that senseless iron grip.

Miss VAN HORN. As far as Dr. Shepherd's comment is concerned, the idea of taxing it, getting it on the balance sheet and taxing these gaps is a good one, but I don't think we should start out with a scheme of gradualism. I don't think we should start out with 4 percent for blacks and women. I think we should start out with 20 percent blacks and 50 percent women—or 40 percent, since they are about that portion of the labor force. And I think the gaps would close so fast that no one would believe it, in fact I think it will happen in 5 years.

Mr. SHEPHERD. My advisor on youth, my son George Shepherd, who is here with me as my counsel, asked if the example of basketball would meet this test.

Senator HART. Yes, it does. And also outsized fellows are now valuable.

As always, when I sit around here and talk about what other people are not doing I compare it with reality. Your suggestion about 40 percent women and 20 percent blacks raised this. I don't know how many of you went over to the joint session of Congress this noon, but we have a performance record here that isn't very good as to the presence of these minorities. I suppose it reflects a folklore that sends us here.

Miss VAN HORN. Having been an entrepreneur, I want to say that I am not too fond of the quota scheme, because it does have problems. You have to give at least large consideration to whether people are qualified. And I think that is one of the things you are concerned about concerning education.

But I also agree with Dr. Shepherd that most of the education is in business itself. From the point of view of women in particular—and I see it in terms of the hiring practices—sometimes a young woman and a young man, say, from a college environment, get hired together to be programers, and the woman will be hired at a lower salary. She starts off already behind. And it continues. She never catches up.

I can understand that there are not great quantities of women in management jobs. I think what we have to do today is ask why the women aren't in management training programs. I think there is no excuse for their not being in the management training programs, because most of the training for management goes on inside the company and not in the business school. That is where you have to start to make the first approach, to insist that women are included in the management training programs. And then there will be more than enough women qualified for management jobs.

Senator HART. Mr. Barmash, or others, have you been able—and perhaps without the statistics one should not even ask the question, and I have a hunch you may not want to answer it—as you have looked at the hiring practices in business, have you been able to find that there is greater willingness and a greater desire to employ and advance minority groups depending upon the size of the business, the character of the business?

Mr. BARMASH. You mean, does a larger company have more liberal policies than a smaller one?

I wouldn't say so. I am thinking now of about three large ones in the area of sales of about a billion dollars a year. They will hire them for the executive training program, but I think with a quota system. But they then get lost in the shuffle. For the last 10 years this has been going on, and I still have yet to see black vice presidents of big public corporations. They are in there if you look hard enough. But what has happened to all that have been hired is, large companies do have formal executive training programs, and then something happens. These people get lost, they get discouraged, frustrated, and they leave and start all over again, or go to smaller companies.

I don't think size is any indicator of a greater liberality. Maybe Professor Shepherd has something more specific. But just using my own experience, I don't think so.

Mr. SHEPHERD. Could I ask at this point that the larger study that I am reporting on be included?

Senator HART. Yes. I think we ordered that it be printed.

(The study referred to follows. Testimony resumes on p. 233.)

LARGE-FIRM EMPLOYMENT POLICIES TOWARD BLACKS AND WOMEN

(By William G. Shepherd and Sharon G. Levin Department of Economics,
University of Michigan)

This section of the Report focuses on large corporations, in testing whether industrial structure and performance are related to employment policies toward blacks and women. The analysis covers about 250 of the largest U.S. industrial firms, utilities and banks, using employment data for 1966 and 1970.

White-collar employment is taken as the index of company policy toward minority groups. Being directly subject to management control, it provides a sensitive test of whatever role may be played by "enterprise policy" under varying conditions and constraints.

Research on these functional relationships (if any) can add to knowledge about discrimination and clarify the conditions which may tend to diminish it. It can also help guide the allocation of public policy resources toward the highest yield alternatives. In particular, by focusing on the largest U.S. firms, the present study covers the relatively few units where enforcement effects could have a large national impact (and might already have begun to do so). We will try to test hypotheses and estimate relationships. We will also discuss performance criteria for firms and draw public policy lessons from our findings.

First, we discuss the hypotheses to be tested, in Section 1. Section 2 covers concepts of market structure and employment and derives the basic models which are to be fitted. Section 3 presents basic data about the firms in the panel, comparing them with national patterns. Section 4 presents the econometric results for the various models and also discusses the upper and lower performers among the firms. Lessons for policy and further research are drawn in Section 5.

1. HYPOTHESES

In theory, competition is color-blind, while market power may breed either negative or positive discrimination. Alternatively, discrimination might be entirely unrelated to market structure, instead flowing only from adventitious company factors and the personal preferences of company leaders. We now outline these alternative hypotheses (see also [8]).

Discrimination in employment may be defined as the inclusion of otherwise extraneous racial, ethnic or sex characteristics as elements in the evaluation of job applicants. For firms operating under the constraints of perfect competition, any significant indulgence of such preferences would impose extra costs and therefore ultimately be incompatible with the survival of the enterprise. Hiring by firms so constrained will be neutral; and if black and female wage rates are relatively low because of discrimination elsewhere, blacks and women would tend to be substituted at the margin for white male employees with equal qualifications. Of course, a majority of employees can still force discriminatory hiring policies upon their employers even in firms which are under competitive constraints. This process and its results have been widely alleged in blue-collar and craft jobs, often assertedly with tacit or explicit union assistance through apprenticeship programs and other devices. But such horizontally-enforced discrimination is less germane to hiring for *white-collar* jobs, which are more clearly, directly and thoroughly subject to independent management control. Therefore, white-collar employment patterns provide a sensitive and direct test of whatever role may be played by management, or "enterprise policy," under varying competitive constraints. They would be expected to be racially neutral under competition, even in firms whose employment of blue-collar workers may reflect discrimination.

By contrast with this neutral competitive outcome, the result under market power is not determinate, and it may run either toward more discrimination or toward less. Profit-maximizing being at least partially voluntary, not mandatory, the management of a firm with market power may maximize among a variety of other preferences. The managerial preference functions may include racial or associated factors, with positive or negative trade-offs. With economic constraints eased, and assuming preferences to be negative, significant and systematically against blacks and women for at least some managers, then one may expect that white-collar employment patterns will embody discrimination. For example, white managers would be expected to substitute white-skinned and male white-collar workers for black and female ones at the margin, and this margin may be a wide one. Managerial preference functions also, of course, include other elements, and they may differ widely in the rate and direction of trade-offs among all elements. Therefore, it is not certain that discrimination would exceed that against applicants who are tall, or left-handed, or Doctors of Philosophy. Yet if there is any racial or sex factor at all, it would tend in the present setting toward lesser hiring of blacks and women for white-collar jobs in firms possessing market power. The strict analysis of maximizing behavior therefore predicts that negative discrimination, rather than neutrality, will occur under market power.

Yet, against this may be set the possibility that upper-level managers may exercise their discretion deliberately and "affirmatively" in the social interest, toward neutrality or even "positive" discrimination. The possible social motivation of the large modern corporation, widely hypothesized since the 1950's, may prevail specifically against the internal tendencies toward discrimination. It might prevail in small monopolists as well as in very large oligopolists, and as the rule rather than as the exception. Such secure firms with long-time horizons may apply positive discrimination, either under government persuasion or with the intention of alleviating or averting local civil disorders. In many cases, the conflicting tendencies within a firm may, at the least, yield a stand-off between these alternative directions of hiring policy. A finding of no relationship at all would not therefore indicate that no pressures at all are operating, but rather perhaps that the cross-pressures are complex and varied. And a positive general relationship between market power and open hiring is entirely possible. But it would require a deliberate reversal of the natural economic tendencies within firms holding market power.

One must of course recognize the problem of qualifications, which arises from deficiencies in the education, training and job experience of many minority group members. For many positions, qualified minority members are said to be simply unavailable. A variant of this is that more affluent firms can "afford" better talent, which by the force of previous and surrounding circumstances is mostly white and male.

Yet the point is not conclusive. Many job qualifications provide substantial leeway in selection and in training on the job. Supposed unavailability can often be overcome by modest ingenuity and efforts in recruiting. And in the larger cities, there are large available reserves of blacks and women for white-collar positions. Altogether, the question of qualifications may bear mainly on the rates at which blacks and women can be assimilated in white-collar positions. If in many cases those rates are slow, then the patterns found for recent years may be expected to change only slowly unless really extraordinary measures are taken.

Yet ultimately there may be no structure-discrimination relationships at all. Discrimination may arise primarily from prevailing local preferences, or from manager's preference unrelated to market power [3], possibly because all firms possess some discretion, and discrimination does not impose large costs. The resulting lack of statistically significant relationships could be indistinguishable from the result (see above) of counterpoised positive and negative discrimination by powerful firms. The policy lessons would in any case be similar: that some firms have high absorptive capacity for minorities as a matter of choice and therefore they set a performance standard for the rest.

2. BASIC CONCEPTS AND MODELS

Market structure and discrimination can be defined in a variety of ways. We will first present our concepts of them and then offer the models relating them.

Market structure has many possible elements. The market power held by a firm is likely to be determined primarily by its own market share, the degree of concentration of the market in an oligopoly group, and the height of entry barriers against new competition [2, 6, 7]. Recent research has combined these main elements in a unified model, fitted with profit data from 1960-69 for 231 of the largest U.S. industrial corporations [6]. It suggests that market share (M) is the primary element in market power, with the leading-firm group (G), barriers (B), asset size (S) and advertising-intensity (A) as relatively secondary elements. The basic fitted model is shown in Table 2. Accordingly we expect M to be an important predictor variable in any relationships between structure and employment, though we also try the other elements for completeness.

The model also generates fitted or predicted profit rates (FP) for each firm in the panel. These are a first approximation to a single integrated index of the firm's degree of market power. FP can therefore be used in place of all the individual structural elements in an analysis "explaining" employment patterns. This alternative mitigates the statistical problems caused by collinearity among the elements, without losing any of the essential structural information.

Profitability itself may provide an equally valid estimator of the room for choice available to the firm. Actual profitability (AP) during the recent and current period may therefore be a primary predictor of discrimination. Alternatively the residual between fitted profitability (FP) and actual profitability (AP) represents the degree to which the firm achieved the profitability it could be expected normally to reach, given its position. A high positive residual profitability (RP) may reflect strict profit maximizing behavior, while negative RP may reflect X-inefficiency [5] via the absorption of profits into non-pecuniary maximizing.

In all these cases—individual elements, FP, and RP—structure (or discretion) may show a positive, or negative partial relation to minority employment, holding all other factors constant. Since they are alternative ways of measuring the same thing, we will try them all and compare the results. There have been indications that the negative discrimination hypothesis will prevail [3, 8], but these have not been conclusive. Though broad in industry coverage, they have had only gross estimates of concentration as a structural element and have not been able to filter out possible qualitative differences among industries.

Now we turn to employment. We will focus throughout on the black and female shares of the various white-collar employment levels, without explicit regard for relative status within those categories. Others who stress relative status [9] focus on all, or primarily blue-collar, employment levels. This is of course appropriate, because minority members are undoubtedly relegated down the employment ladder, among and within categories. We are aware that many blacks and women in Officials and Managers jobs, for example, are concentrated down in the very lower ranges of that category, and that black foremen and women clerical supervisors are remote from the upper executive offices. Yet these problems need not be fatal for analysis. They can be borne in mind as a systematic bias, and the available data do not, in any case, enable us or anyone else to filter the bias out. The minority employment shares we use are, we repeat, gross exaggerations of the true minority participation in almost every case. Tokenism lives on. Yet, properly interpreted, they may offer a reasonably reliable indication of differences in the relative degree of minority access.

Our focus on white collar patterns implicitly allows for much, if not nearly all, of the relative status problem. We suspected, and found, that many firms which take high shares of blacks and women at lower levels were resolutely exclusionary at the upper levels. Such schizophrenia is perfectly understandable; it is not hard to impose integration on others even if one will not accept it for oneself. Nevertheless we do believe that equal employment opportunity below is furthered by equal employment opportunity at the policy-making levels, for obvious reasons. It is the upper white-collar jobs—officials and managers, professionals, and technicians—which offer perhaps the greatest genuine “opportunity.” A large share of the lower jobs are, or can easily be made into, dead-end jobs where the mere holding of the position by a minority member reflects no real opportunity at all.

We recognize that participation rates are not a comprehensive measure of employment opportunity and company policy, but we regard them as an adequate first approximation.

The basic premise is that when the supply of minority workers is very elastic, then the micro-economic effect of discrimination by any individual employer will appear in the *quantity* hired, rather than the relative wage of those hired. This justifies focusing on the quantity effect, because supply is highly elastic to any one firm in a labor pool. This is especially so in large cities, where the pool is large.

Consider first a pure case, with perfect competition, no productivity differences between minority and non-minority workers, no wage differences between workers, and no time lags involved. Under these conditions, Figures 1 and 2 hold for any firm, for any skill level.

Marginal
Productivity

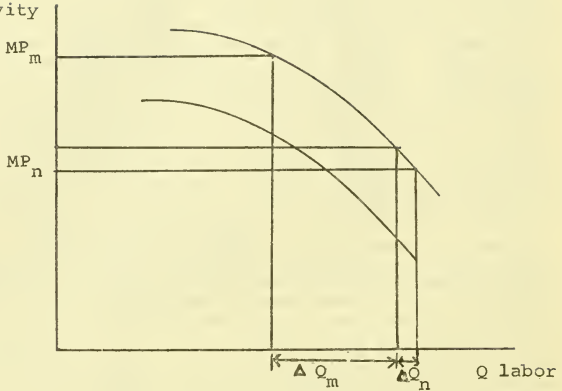


FIGURE 1

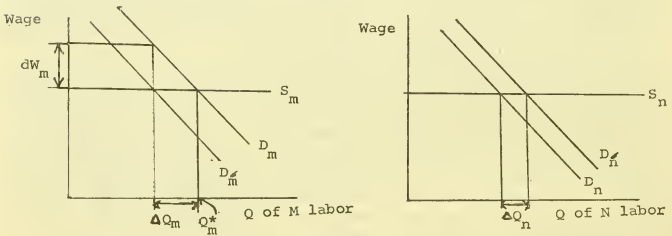


FIGURE 2

Discrimination is d , the vertical downshift in demand for minority members (assume it constant). It may be caused by manager's preferences and/or by non-minority workers' aversion and lesser productivity if minority members are present.

$W_m(1+d)$ is the shadow wage (effective wage) for minority members. dW_m is the added cost to the firm of using minority members. Discrimination then causes less minority members to be hired ($-\Delta Q_m$), and more whites (ΔQ_n). $\Delta Q_n \cdot \Delta Q_m$ is smaller than $-\Delta Q_m$ because the firm's total costs are higher with discrimination, so its output must be lower.

In terms of marginal productivity, minority marginal productivity is now higher than white marginal productivity. This gap varies directly with the size of d , and it shows the marginal productivity loss from substituting the last non-minority worker for the last minority worker.

Therefore :

$$\frac{MP_n}{MP_m} = k \frac{W_n}{W_m(1+d)}$$

k may be equal to 1, or it may represent a function of some sort, depending on the shapes of MP and d .

In this pure case, discrimination does not affect relative wages at all, only relative numbers hired. The cutting edge of discrimination is in the gap $\frac{MP_m - MP_n}{MP_m}$. This varies with $\frac{W_m(1+d)}{W_m}$ and with $\frac{\Delta Q}{Q_m}$.

An estimator of d is therefore $\frac{Q_m - Q_m^*}{Q_m} = dQ$, where Q_m^* is the amount of minority members that would be hired if there were no discrimination.

If labor productivity is equal among minority and non-minority members, then Q_m^* is the proportion of minority members available in the total work force. This yields "naive" estimates of discrimination, for each city, each firm at each skill level, and (with appropriate weights) whole firms.

More sophisticated estimates would allow for three factors: wage and productivity differences, and time lags.

Wage differences. Minority members are generally available to any individual unit at reduced wages, because of the discrimination they meet generally. This increases Q_m^* above the simple population or labor-force share. The only things which might offset this are (1) temporarily higher salaries of black junior executives under recruiting pressure (but these are likely to be small, the pressure coming often, instead, in the form of multiple job offers), and (2) search costs for finding qualified blacks and women. This factor will probably vary inversely with the size of the SMSA.

Productivity differences. Where minority members' skills are generally lower, some reduction of Q_m^* below the population is to be expected. Yet this can partly be corrected by using the minority share of the labor force at each skill level as Q_m^* . This should cover most of the educational differences which could be explained by SMSA minority education patterns. There still may remain lesser skills of minority members in each grade, possibly more than wage differences offset, and this might be more acute in the upper job categories. Much executive "training" is on-the-job training or acculturation, for which prior objective preparation is only partially adequate. Against this should be set the fact that minority members' ability to absorb such on-the-job training can be regarded as at least as good as non-minority members'. The fundamental bars are therefore hostility and resistance to accepting minorities for this acculturation; and those bars are precisely d . Therefore the rate of increase of minority members should be at least proportional to the minority members' share of available workers if the firm is not discriminating. It may be possible to test this by comparing 1966 and 1970.

Time lags. The stock ratios will reflect past patterns of (1) availability and (2) discrimination. Ideally, these would be included by estimating the functions over the last 40 years, during which the present work force was created. One could attempt this on an industry basis, using Census data for earlier years, but not for individual firms. Note that time lags would be most important at the highest levels, where acculturation matters most and job tenure is highest.

One cannot ignore the time-lags, therefore, but their role is narrowly focused. And even in that focus, much of the "natural" time lags actually represent "clubbiness" made up in large part of exclusiveness which is unnecessary to efficient functioning of the firm. Indeed, such exclusive personal loyalties are possibly the cause of significant inefficiency in a number of major firms.

The use of quantity effects is therefore a reasonable method to obtain first approximation estimates of d at the white-collar levels in individual firms and cities. It can be used to test if d_0 varies directly with firms' market power, and other conditions. This is tested both for 1966 and 1970 for stock patterns (d_0), and 1966-70 for first differences (Δd_0).

Our ultimate goal is to improve performance in absorbing minority members. What defines "performance"? Is it, at one extreme, the sheer hiring itself? Or, at the other extreme, is it the hiring rates *after* allowance for all possible special factors? One such allowance is that some work is "women's work" (clerical, stitching clothes or shoes) while other kinds are not (furnace cleaning). On the latter basis, a clothing company with high female participation rates could be regarded as performing worse (*i.e.*, being more discriminatory) than a smelting firm with a low rate. Many such allowances are possible.

We prefer the first position, that hiring is hiring. Making allowances is an endless and highly subjective process. Such external objective factors as SMSA labor supply, size, and growth do belong in an explanatory model. But internal factors do not belong in a normative evaluation. We will offer both kinds of analyses, so that the reader can make his own evaluation; one example of an "allowance" is to split firms into producer and consumer goods categories. Our own evaluations will mainly exclude such allowances.

The ultimate performance criterion is the population share of the minority group: about 11 percent for blacks, 50 percent for women. The best immediate criterion of what can be expected of firms is the participation rates already reached by "high-performance" firms which are otherwise comparable. In the upper white-collar levels we are dealing with here, no "allowances" need be made in first-round comparisons of firms.

These standards are of course rising. As most firms have raised black participation in white-collar jobs during 1966-70, the best performers have also raised their levels further. This moving target is the correct normative one. As will be seen below, the 1966-70 gains for blacks merely begin to close the long-range gaps. The fundamental question is whether the mass of firms will continue to follow the few best performers or, instead, taper off during the next decade.

From these considerations, the basic analytical structure-employment models can be specified. The dependent variables will be the participation rates of male blacks and of women in the upper one or three white-collar job categories. Independent variables are market structure, efficiency, profitability, growth, product type (producer or consumer good) and the regional focus (if any) of the firm. A city-based analysis includes data on city size, growth, unemployment rates and city-wide participation rates at each job level. To test the degree of unity in firm hiring at blue-collar and white-collar levels, an "incidence" variable (I = the global minority participation rate for the firm) was included in some analyses. This incidence variable, then, is a measure of absolute divergence in hiring patterns of minority members of white-collar workers from blue-collar workers. Furthermore to test for the existence of "tokenism," or the relative divergence in hiring patterns for minority members, the *log of incidence* was also used in some analyses. We are concerned not only with the level of minority participation in white collar positions compared with the global incidence of minority members, but also whether firms with, say, 10 percent more minority members have 10 percent more in white-collar positions. A negative coefficient for $\log I$ indicates that upper-level participation does not rise proportionally with lower-level participation.

The variables are listed in Table 1. Alternative basic models are in Table 2, both for static patterns and for shifts during 1966-1970. In cross-section analyses of this sort, using imperfect data, a relatively low degree of statistical explanation is to be expected at this exploratory stage. The M and C (and therefore, FP and RP) data contain elements of estimation, the MB and F data overstate the actual degree of participation, and the 1966 MB and F data contain certain ineradicable errors arising during that first year of EEOC reporting by firms.

The measurement errors in the dependent variables, MB and F, will not bias the coefficients of the explanatory variables, but will be subsumed in the error term, thus reinforcing the likelihood that the explanatory power of the regressions will be low. Hopefully the measurement errors in M and C (FP and RP) will be independent of the other explanatory variables in the regression, therefore not violating a crucial assumption [$E(x'u) = 0$] of the simple linear model used in estimation.

Coverage of firms is based on the 231-firm study of large industrials [6], which provided the market structure data. Some 28 banks and 17 utility firms were added, from the 15 SMSA's which were covered in the city-based analysis. The firms are listed in Appendix A. The SMSA's are Atlanta, Baltimore, Birmingham, Boston, Chicago, Detroit, Houston, Los Angeles, Minneapolis-St. Paul, New Orleans, New York, Philadelphia, Pittsburgh, St. Louis and San Francisco. They are selected both to provide a full range of regional types and to cover the more important SMSA's. Their main attributes are given in Appendix B.

Some marginal differences in company coverage in 1966 and 1970 occurred because of difficulties in locating data. These are noted in Appendix A. The 1966 data are generally less reliable, because the reporting system was new and some errors in reporting and storage occurred. Some firms are missing for 1970 because of mergers. One result is to undermine the analyses of 1966 SMSA patterns and of 1966-70 changes in company-wide participation rates. Given the complexity of the conditions under study, it may not be possible to identify patterns even with samples as large as those used here.

3. GENERAL PATTERNS

The global patterns of the large-firm panels are shown in Tables 3 and 4, based on Appendix Tables C1 and C2. In 1966, the firms had very low average black participation rates. In the 3 upper white-collar levels, the large firms were at only about $\frac{2}{3}$ of the national averages. The large firms were a substantial share of national totals, in the range of 10 to 20 percent. Their total black participation rate was, at 8.7 percent, slightly above the national average, but blacks were confined to lower-level jobs even more sharply than in the economy as a whole. If these firms had matched general patterns, then national MB3 levels would have been raised by 7 percent on average. The 10 best performers had MB1 values averaging 1.8 percent. If all the included large firms had reached this target level, they would have raised their MB levels by 4,800 and the *national* MB1 rates by 33 percent, a substantial but not unrealistic amount.

In female participation rates, the large industrial firms were much further below 1966 performance standards, with F1 and F3 averages only about $\frac{1}{4}$ to $\frac{1}{2}$ of the national averages. The potential national impact from improvements by these firms in hiring women is therefore even larger than in the case of blacks. Banks and utilities were close to the national averages already. This mainly reflected the supervision of women by women, thanks to the small armies of clerks employed in those firms. Since both banks and utilities are known to exclude women from the policy-making executive positions, the high F1 and F3 values for these firms partially overstate the degree of actual participation and opportunity for women.

Table 4 shows a marked rise in MB1 and MB3 during 1966-70, nearly tripling the 1966 shares in each job group. This was more rapid than the rise in the national averages, so that by 1970 the large industrials were nearly in line with national performance levels. Slight differences in the composition of the 1966 and 1970 groups do not materially affect the comparison. By 1970 almost every one of the firms had at least one male black in each job category, compared to the scores which in 1966 had none at all in the upper one or three job groups. Yet the gap between performance and target remained large in 1970. The best performers had improved apace, so that in 1970 the potential gain from the mass of firms was still high. For example, achievement of the 10-best performance level by the whole industrial group would have raised national MB1 levels in 1970 by 12,300, or about 42.4 percent.

For females, the 1966-70 rise in participation was much less than for blacks, both in the large firms and in the whole economy. Only in Professional jobs did female participation rise by much. Female participation in Officials and Managers, and Technicians, jobs did not rise significantly in the large industrials, and the rate actually fell in utility Officials and Managers. On the whole, large industrials exclude women more sharply than do banks and utilities, and perhaps increasingly so. This contrasts with their more rapid improvement in absorbing black males.

The gap between average and best-10 performance in industrial firms remains especially large for females. Women participate only marginally more than do black males in upper white-collar jobs, and at recent rates of change they would soon participate less. Most of their participation is in the more subordinate Professionals and Technicians occupations, and their higher F1 rates in banks and utilities are known to involve mainly the supervision of other women.

Both male blacks and women therefore can be said to have been absorbed only very marginally into the upper job positions in large firms. Whether this participation will increase further, into substantial involvement, remains to be seen. As our empirical investigation bears out, the signs are presently more favorable for male blacks than for women; apart from Professional jobs, women's prospects appear to be slipping rather than improving.

Most of the firms can be classified in specific industries, primarily at the 3-digit level of detail. There are significant differences among these industries in their participation rates for all blacks, ranging from .2 percent to .9 percent. *Within* these industries, an inspection of the company data for 1966 suggests only faint patterns. In loose oligopolies, there are no systematic differences in MB1 between leading and lesser firms. But in 16 of the 21 tight oligopolies, the leading 1 or 2 firms have lower MB1 than the middle-ranking firms, while the lower-ranking firms show no pattern at all. Beyond that, industry groupings do not show a clear role of the market position of the firm.

4. ANALYTICAL RESULTS

Several variants of the basic models in Table 2 were fitted to alternative data sets and sub-sets. Voluminous though they may seem, the regressions in Tables 5-16 are a highly selected portion of those tried, designed to clarify the basic patterns. The most reliable regressions do not pool the banks and utilities with the industrial firms; in exploratory pooled analyses, the banks and utilities held border positions and affected the coefficients strongly. Apparently their conditions of entry control and quasi-regulation by public agencies, and probably their different production functions (recall Tables 3 and 4), justify segregating them from a cross-industry analysis.

Company-Wide Analysis, 1966 and 1970

The main analysis of company-wide patterns in 1966 and 1970 are given in Tables 5-12. A correlation matrix for the main variables is given in Appendix C3. For male blacks, region can often be identified as a significant variable; in the South and in the non-metropolitan North, black participation is less than that of nationally spread companies. This presumably reflects true discrimination in the South and the lesser availability of blacks in the non-metropolitan North. Because producer-goods firms show significantly lower participation rates, perhaps indicating different underlying behavior, the samples were divided into producer and consumer goods firms for separate analyses. Growth is at most a weak positive factor in male black hiring but is strongly positive for women's participation. Producer-goods firms discriminate strongly against both.

First we discuss blacks. The individual elements of market structure (M, C, S, and A) show some consistent but weak associations with black male hiring. They tend weakly to suggest that market power (perhaps in concentration and size) may yield slightly higher participation rates.

The summary market power index (FP) shows similarly consistent but weak patterns. Market power appears to be associated positively with male black participation rates only at the top three levels as a group. The association is still barely significant, and it implies a participation rate only about 1.0 point higher for the highest levels of FP (about 25 percent). It does not hold for the key Officials and Managers category, which is the acid test of policymakers' preferences. These patterns do not contradict Comanor's finding of a positive association between profitability and discrimination against blacks. His analysis is less focused on the key job categories which may reflect top-level choices. Even the white-collar category used by him is much more inclusive than the categories treated here. Therefore the results are compatible, though not reinforcing.

For both male blacks and women, there is a fairly strong association (simple r about .32) between total and upper-white-collar participation rates. This reflects the known tendency for blacks and women to be put in supervisory positions over other blacks and women. Accordingly, the regressions including the I variable "allow" for this factor. Yet this allowance may (recall Section 2) be inappropriate. The large share of minority members at lower levels may reflect true equal-opportunity hiring. To this extent, regressions omitting I are appropriate. They suggest a much weaker, or nil, affirmative role for market power (equations 1, 2, 3, and 4 in Table 9) and a stronger influence from region and industry type.

Some observers have suggested that black and female discrimination are correlated. This would surface here as a high correlation between male black and female participation rates. In fact the 1970 single r^2 values are .005 for MB1 and F1 and .10 for MB3 and F3. These give scant support to this hypothesis, though they do not suggest an inverse relationship.

The static regression patterns for women are broadly similar to those for black males, with a more definite positive role for market power. When one takes account of incidence, regional influence becomes important. Female participation is significantly less in Region 1, and significantly more in Region 2 than the participation rates for companies with nationwide orientations (Region 4). Producer-goods firms are again unusually strong discriminators. Indeed, one may say that producer-goods firms discriminate so strongly as a group that the differences among them are relatively insignificant. The market power index (FP) is consistently strong and has a significant positive association with women's participation rates in white-collar positions. It is evident that, generally, women's opportunity is greatest in leading firms in high-FP consumer-oriented firms. But here again, *cet. paribus*, there is no statistically significant pattern between market power, however measured, and participation in the key Officials and Managers category by women.

The allowance based on I is particularly influential for women. And the natural logarithm of I is consistently and significantly negative with respect to $F1$. This suggests that the effect of I on $F1$ tapers off as I rises. A rise in lower-level female participation rates yields *less* than a proportional rise in upper-level female participation. This contrasts with the null finding for $MB1$ and the generally positive log I coefficients observed for $MB3$. One implication is that resistance to female participation is more deeply entrenched than it is against black males. If so, the ultimate prospects for female participation are relatively limited, even in "favorable" conditions. This is further attested by the low general access of females in the industrial firms.

Yet alternatively, it may just be that the black participation rates have not yet reached the 4-7 percent range that women have reached in some upper-level jobs. Once black participation begins to rise above the sprinkling implied by a 1.4 percent rate, perhaps it too will encounter increasingly strong resistance.

This is in line with our surmise in Section 3 that the real achievement of open hiring for blacks (as well as women) lies in the future, despite the changes during 1966-70. Despite the slight differences among the large industrial firms, perhaps influenced by discretionary resources arising from market power, the group as a whole has only just now gotten up to the performance level toward black males which applies elsewhere in the economy. Its discretionary resources, of course, would permit it to reach a much higher performance level, as shown by its own best performers. Whether or not one endorses such frankly social efforts by private firms, there is no question that the resources are there for accomplishing this objective. That is shown by the lack of association between black males participation rates and the AP and RP profitability levels. Apparently it is motivation which is decisive, not access to supernormal resources.

The residuals of the regressions identify the worst and best levels of performance relative to reasonable expectations based on the apparent determinants of hiring policies. These residuals, when multiplied by the firm's total employment at the corresponding job levels, indicate which firms offer the highest aggregate yields from moving to the expected performance levels. These firms are enumerated in Appendix Tables D1 through D4 for male blacks and women in 1970. Disclosure rules do not permit listing company names in these tables in the public report, but they are being made available to the Equal Employment Opportunity Commission, for possible enforcement guidance.

Many of the large-residual firms have high market shares; this reinforces other evidence that performance variations are very wide among firms with market power. Among the 35 lowest $MB3$ performers, only two oil firms had market shares below 11 percent, and only five others were below 15 percent. Apart from oil firms, the group's average market share was 26 percent, 5 points above the 174-firm sample average. On the whole, the big performance gaps are mainly in firms with market share above a threshold level of 15 percent. Therefore high market share is an important first-round basis for selecting possible low performers for agency action.

The performance gaps shown by these lowest performers are substantial, but they are only about one-half the gap of the *whole* 174 firm sample compared to the best-10-firms criterion. The reader should bear in mind that these are part of a sample embracing only about one-third by number of the largest 500 industrial corporations. There are undoubtedly other firms whose performance, if it could be treated in the analysis, would be as deviant as these cases. Nonetheless the sample does cover over half of the top-500 total assets, and it does include all those for which data on market power and minority employment are presently available.

For male blacks the "best" industrial-firm performers in 1970 were widely scattered over the range of industries, including automobiles, steel, tobacco products, engineering, rubber and beer. None of the handful of firms with greatest market power (see [6, 7]) were among those with the highest participation rates or highest residuals. About half of the best performers were well below the leading-firm range in their industries.

We can indicate broad patterns in 10 selected major industries, as follows:

1. *Automobiles*. $MB1$ and $MB3$ performance is inversely related to market position. $F1$ and $F3$ participation is low but not related to market position.
2. *Petroleum*. Performance is low for all minority categories in virtually all firms.
3. *Steel*. $MB1$ and $MB3$ performance is relatively high and shows a broad positive association with market position. $F1$ and $F3$ performance is uniformly low and unrelated to market position.

4. *Photographic*. Performance is low for all minority categories and inversely related to market position.

5. *Meatpacking*. Performance is low for all minority categories.

6. *Soaps and detergents*. MB performance is inversely related to market position; F performance is unrelated to market position.

7. *Electrical equipment*. MB is inversely related to market position, among the leading five firms, F shows no pattern.

8. *Pharmaceuticals*. MB performance varies sharply, but is about average. F performance also varies markedly, with F3 levels well above average.

9. *Copper*. MB and F performance varies sharply. F performance averages relatively low.

10. *Textiles*. MB performance is uniformly low, in no case above the predicted value. F performance is consistently near predicted levels.

Turning now to female participation, we find a much closer focusing of low performance in the largest and highest market-share firms. Five of the seventeen lowest are among the 30 largest industrials. Only two have market shares below 16; the entire group's average market share is 34, well above the entire sample's average of 21. The highest positive residuals were mainly in drug, toiletries, textiles, and publishing firms, where female participation in lower jobs is also high. Apart from this, performance patterns are not strikingly clear on an inter-industry basis, so we are omitting a discussion of female participation in major industries.

Altogether, the individual-firm data can help in allocating scarce public-agency enforcement resources and provide a basis for setting performance targets. Though many of the large negative residuals are not in the very largest firms, it is primarily in the largest firms that the largest aggregate yields may be gained by agency actions toward individual firms.

Analysis of Changes from 1966 to 1970

Changes between 1966 and 1970 are analyzed in Tables 13 and 14. Among the industrial firms, residual 1966 performance was not related to 1966-70 changes for male blacks; the catching up hypothesis did not hold. But for women, it does hold, strongly. Producer-goods firms generally fell further behind in absorbing both minority groups. Discretionary resources shown by FP and RP were unrelated to rises in black male participation.

Yet RP alone shows a significant positive relationship with women's participation rates in consumer-goods industries, which carries through to the entire industrial panel. This again reinforces our findings in the static analyses, that women's opportunity is greatest in the consumer-goods firms. However, both measures of discretionary resources in the all-company panel—industrials plus banks and utilities—were significantly negative with respect to female participation rates. Here again one's interpretation must filter out the special conditions of technology and regulation in banks and utilities, where high participation rates may still reflect low performance relative to normative expectations.

In no event did market share or growth foster higher participation rates for male blacks. However for producer-goods firms, holding other things constant, market share was significantly negative with respect to women's participation rates; nonleading firms in this category have substantially improved their performance. Bigness per se was associated with higher black male hiring but (due only to the inclusion of banks and utilities) lower female hiring.

One striking contrast appears when one considers the prospects for equal opportunity for male blacks compared to females. The change in the global incidence of black males for the firm has a significant positive relationship with increases in black male white-collar positions, but no such relationship exists for females. This implies that a swelling of lower-job black participation leads to the hiring of more black male supervisors, but that a rise in lower-job women's participation does not lead to a rise in women supervisors. Therefore, one source of women's opportunity appears to have faded away. Altogether then, discrimination against women appears to be tightening. The only analytical factor working to raise women's participation (as well as black males) at the upper level of these large industrial firms is advertising intensity, indicating that firms with discretionary resources (RP or particular expenditure A) presently appear to offer the man favorable prospects for reducing discrimination against women (lines 5 and 6, Table 13).

For male blacks the prospects are not so negative, nor yet strongly positive. Regional factors are not particularly encouraging either. Measuring regional shifts in the regressions as deviations from the level of "region 4" (nationwide

orientation), we find that region 3, non-metropolitan northern areas, is significantly below this level, while companies with nationwide orientations themselves have made significant gains in male black participation rates. In other words, the northern states have been particularly poor hunting grounds for upper level jobs for black males. Therefore, the limits of marginal (or token) participation may be reached already, and there appear to be no new regional reservoirs of opportunity for black males to tap. These results lead one to believe that multi-plant companies serving a national market set companywide equal employment hiring policies and should be the prime enforcement focus.

City-Based Analysis

In 1966, our large-firm sample had about 2,000 plants in the 15 SMSA's which make up our stratified sample of cities. We consolidated these into one observation per firm per city, numbering well over 1,000. Most of these are small plants, with too few white-collar workers to give reliable patterns. Our analysis focuses on those 431 firm-city cases whose total employment in the upper three job groups was 25 or more. The group is heterogeneous and weighted toward the very largest firms. In 192 of the 431 cases, there were no male blacks at all in the upper three job levels; in 87 cases, there were no women at those levels. Mean values for 1966 were: MB1=1.01 percent, MB3=1.81 percent, F1=2.69 percent, and F3=6.39 percent. The cases show wide varieties in performance and special conditions, and our measures of some attributes of companies and cities are known to be imprecise. Therefore, we were not confident that the results would be clear and consistent.

In this perspective, Tables 15 and 16 show surprisingly consistent patterns. We consider male blacks first.

Certain city conditions (size, size of black population, and unemployment rate) do appear to exert the expected influences. Black participation is higher in cities which have lower unemployment rates, which are larger, and have larger black "communities." This last effect was difficult to isolate due to the collinearity between size of the nonwhite population and city-wide participation rates for black males, but the exclusion of this latter variable does not significantly reduce the explanatory power of the regression. Yet growth—of city population 1960–1966 and of the parent company—does *not* increase male black participation. This goes against the common belief that blacks' prospects are best in growing cities and firms.

Certain elements of market power are positively associated with male blacks participation. Market share is consistently positive; the coefficient implies that a firm market share as high as 50 percent goes with MB1 and MB3 that is 3.2 percentage points higher. The FP market power index is comparable. Residual profitability (RP) is associated only with MB1. Yet company size is negatively associated. Contrary to popular impression, bigness goes with reduced black opportunities in white-collar positions. And producer-goods firms perform steadily below the rest, as before.

The incidence variable (IMB) is consistently positive. Lower-job black participation goes with higher-job black participation, as before. But this factor does not strongly affect any other variable in our analysis of black employment, in Table 15. We conclude that certain elements of market power and city conditions are related to male black employment. This applies among these large industrial firms, although not necessarily among firms of all sizes. Still, very roughly speaking, blacks' opportunities appear to lie more in small consumer-goods monopolists in large cities where unemployment rates are low. Bigness and growth are not favorable conditions.

For women, the lessons contrast sharply in several ways, as Table 16 makes clear. The incidence variable (IF) is now critically important; it effaces most of the positive role of market power (M, FP and RP), and all of the role of city conditions. In short, women are hired at upper levels primarily where there are women in high proportions at lower levels. The specific attributes of size, growth and producers-goods emphasis show significant negative contributions, after taking account of the global incidence of females.

Therefore, women's opportunities appear narrowly centered in the relatively few industries which hire women clerks and operatives in high proportions. The structural and city conditions appear to be mainly neutral or negative. Company growth is, if anything, negative. Such restricted prospects, even compared to those of blacks, conform to all the other evidence we have presented here, from company-wide patterns. They accord with the observed slippage of women's participation during 1966–70, and they reinforce our expectation that these trends will continue.

The SMSA-based analysis generates information about highest and lowest performance levels, as does the company-wide analysis. Most of the lowest performers are parts of the very largest firms. The data show tokenism in pervasive detail: the vast majority of the firm-city cases had MB3 levels below 1 percent in 1966. For both male blacks and women, the distribution is skewed. A small proportion of very high performers are scattered among a mass of low performance.

5. IMPLICATIONS

This study has derived several clear lessons and a variety of analytical patterns. Large industrial firms appear by 1970 to have reduced their discrimination against blacks to average national levels. This reflects more than a doubling of black participation rates in upper level jobs during 1966-70, though it leaves most industrial firms far behind the leading industrial performers. In banks and utilities, the rise has been even more rapid, though the participation rates are still not high. *Lesson:* rapid rises are possible, and further rapid rises appear both justified and possible. Even so, the rapid 1966-70 rise would have to continue unabated for 40 more years before black participation at these job levels is in line with the black share of the labor force.

Exclusion of women, by contrast, appears not to have dwindled during 1966-70, and so women presently participate in upper level industrial jobs at rates about the same as for black males. Given the higher relative training and population shares of women as a group, this indicates that discrimination against women is more severe in large industrial firms. Nor is the picture basically different in utilities and banks. *Lesson:* large-firm discrimination against women is very strong and apparently unyielding.

Discrimination against blacks arises mainly from external factors (region, industry type) and individual company choice, rather than market power and discretionary resources. Whether this holds outside the industrial sector cannot be said. Nonindustrial firms may still show a positive relation [9] between market power and discrimination. Industrial firms with high market power range between both extremes of negative and positive discrimination. Large-firm leadership in providing equal opportunity for blacks is sparse, even in cases where the firm's intake of blacks for menial jobs is high.

For women, market power may be associated with upper-level job opportunity in industrial firms, but this pattern does not hold in the SMSA-based analysis. Size, growth and producers-goods emphasis all reduce female participation. Many firms possessing large discretionary resources appear to engage in pecuniary maximizing partly via excluding females. The primary proportion of upper-level female participation appears to be accounted for by supervision of other women in lower jobs. Apart from that, market power apparently fosters only slight rises in female participation, and at a declining rate. Altogether, the analytical conditions do not favor improvements in female participation.

The models single out the distinctively best and worst performers, given the average performance of the sample. Many of the latter cases seem to offer extremely high yields to full enforcement action. These identifications must be tentative, since the models have not yet developed high explanatory power. This in turn arises, we believe, from the defects of the data (especially in 1966) and our inability to allow properly for the host of individual influences which appear to operate on many firms. Even so, the analyses have generated some consistent patterns.

We recommend further, and fuller, analysis at the company level, in successive years and with more refined structural, regional, and industrial variables. It seems clear that rapid improvements are possible when the firm is adequately motivated, either by pressure, inner preference, or positive incentives. Our data indicate that the next decade will be a watershed for large-company policies toward both blacks and women. Both minority groups presently have little more than a token presence, even in the better performing firms. Equal employment opportunity requires continuing the rise in black participation, and reversing the slippage in women's participation, for a long series of years to come. Our analysis indicates at least some of the conditions, and specific firms, where agency action offer high yields.

For women's opportunity, especially, the most efficient agency strategy would focus on certain of the very largest firms. For women and blacks both, voluntarism appears to be no effective substitute for pressure. If the next decade is as critical as we have indicated, the enforcement resources and powers applied to large firms should be large, much larger than they are at present.

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Table 1, Basic Variables for Analysis

Dependent Variables:

MB1 -----	Male blacks as a percent of all male Officials and Managers.
MB3 -----	Male blacks as a percent of all male Officials and Managers, Professionals, and Technicians.
F1 -----	Females as a percent of all Officials and Managers.
F3 -----	Females as a percent of all Officials and Managers, Professionals, and Technicians.
Δ MB1, Δ MB3, Δ F1, Δ F3.	Change during 1966 to 1970 in participation rates.

Independent Variables: Company Attributes

M -----	average market share of the firm in its primary markets.
C -----	average 4-firm concentration in the firm's primary markets.
S -----	logarithm of total asset size of the firm.
A -----	advertising expenditure of the firm as a percent of its sales.
E -----	percentage growth of firm sales 1961 to 1968.
PD -----	dummy variable=1 if firm sells mainly producer's goods.
R -----	regional dummy variable: R1=primarily southern, R2=middle states, R3=northern low-black areas, others=not specific.
IMB, IF -----	incidence=firm-wide minority participation rate.
FP -----	fitted profit rate (= "degree of market power") for 1960-69.
RP -----	Residual profit rate (= degree of X-efficiency) for 1960-69.
AP -----	Actual net profit after taxes as a percent of investors' equity, 1960-66 or 1960-69.

Independent Variables: SMSA Attributes:

POP -----	SMSA population, 1966
Δ POP -----	SMSA percentage population growth, 1960 to 1966
U -----	SMSA unemployment rate
NWP -----	blacks as percent of SMSA population
PM1, PM3, PF1, PF3, IMB, IF.	SMSA minority participation rates at various job levels

Table 2. Basic Models

Company-wide, 1966, 1970, 1966-70 :

$$MB \text{ or } F = a + b FP + c RP + d R1 + e R2 + f R3 + g PD$$

$$MB \text{ or } F = a + b AP + c R1 + d R2 + e R3 + f PD$$

$$MB \text{ or } F = a + b M + c S + d A + e E + f R1 + g R2 + h R3 + i PD$$

$$\Delta MB \text{ or } \Delta F = a + b FP + c RP + d R1 + e R2 + f R3 + g PD$$

$$\Delta MB \text{ or } \Delta F = a + b (RMB \text{ or } RF) + c FP + d RP + e R1 + f R2 + g R3$$

SMSA-based, 1966 only :

$$MB \text{ or } F = a + b FP + c RP + d PD + e POP + f \Delta POP + g U + h (PM \text{ or } PF)$$

TABLE 3.—PARTICIPATION RATES OF MALE BLACKS AND FEMALES, IN LARGE INDUSTRIAL, BANKING, AND UTILITY FIRMS, 1966

	Officials and managers	Professionals	Technicians	Sum of 3 groups	Total
All industrial firms:					
Male blacks as percent of all males...	0.51	0.49	1.45	0.71	8.70
Females as percent of total.....	1.51	2.23	7.38	3.26	17.09
Banks:					
Male blacks as percent of all males...	.46	.95	3.75	.63	4.64
Females as percent of total.....	9.96	13.86	27.75	12.70	53.70
Utilities:					
Male blacks as percent of all males...	.24	.49	.74	.45	3.73
Females as percent of total.....	11.21	7.00	5.15	7.81	22.75
National:					
Male blacks as percent of all males...	.75	.88	2.29	1.08	8.17
Females as percent of total.....	9.20	13.20	27.80	15.86	33.95

Source: U.S. Equal Employment Opportunity Commission, various compilations.

TABLE 4.—PARTICIPATION RATES OF MALE BLACKS AND FEMALES, IN LARGE INDUSTRIAL, BANKING, AND UTILITY FIRMS, 1970

	Officials and managers	Professionals	Technicians	Sum of 3 groups	Total
All industrial firms:					
Male blacks as percent of all males...	1.47	1.42	3.08	1.78	10.52
Females as percent of total.....	1.42	4.53	7.49	3.82	17.72
Banks:					
Male blacks as percent of all males...	1.74	3.73	10.81	2.65	10.76
Females as percent of total.....	13.65	23.82	22.20	16.10	60.02
Utilities:					
Male blacks as percent of all males...	.84	1.33	2.89	1.92	6.32
Females as percent of total.....	6.40	9.24	3.82	6.56	21.66
National (1969):					
Male blacks as percent of all males...	1.30	1.40	3.40	1.71	9.20
Females as percent of total.....	10.03	23.10	25.01	13.74	33.92

Sources: U.S. Equal Employment Opportunity Commission, various compilations.

TABLE 5.—ANALYSIS OF MALE BLACK EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966

Equation No. and dependent variable	Independent variables							R ²	F ratio		
	Constant	Fitted profit-ability (FP)	Residual profit-ability (RP)	Regional dummies			Producers good dummy (PD)			Incidence (1)	Log of incidence (.11)
				South (R1)	Middle States (R2)	North (R3)					
All 187 industrial firms:											
1. MBI	10.590 (4.31)	-0.007 (.68)	-0.014 (1.37)	-0.090 (.69)	0.009 (.12)	-0.219 (1.38)	1-0.242 (3.35)			0.076	
2. MB3	2.352 (2.22)	1.038 (3.38)	.001 (.09)	-.144 (.95)	.019 (.21)	2-.399 (2.17)	1-.326 (3.91)			.198	
3. MB1	.368 (1.41)	.005 (.53)	-.010 (1.06)	1-.345 (2.83)	.005 (.08)	.063 (.41)	1-.172 (2.68)	2 3.260 (3.39)	.060 (1.06)	.300	
4. MB3	.297 (.95)	1.049 (4.73)	.005 (.47)	1-.380 (2.60)	.031 (.38)	-.079 (.43)	1-.280 (3.38)	2 2.627 (2.27)	.100 (1.48)	.344	
89 consumer-goods firms:											
5. MB1	.337 (.77)	.011 (.74)	-.014 (.94)	-.374 (1.48)	.031 (.24)	.157 (.65)		2 3.446 (2.15)	.092 (.96)	.249	
6. MB3	.036 (.07)	1.067 (3.87)	-.003 (.19)	2-.625 (2.16)	.019 (.13)	-.001 (.00)		2 3.540 (1.93)	.114 (1.03)	.330	
98 producer-goods firms:											
7. MB1	.095 (.35)	-.001 (.13)	.003 (.30)	1-.333 (3.19)	-.003 (.05)	.100 (.36)		1 3.410 (3.24)	.007 (.11)	.348	
8. MB3	.150 (.43)	.028 (2.36)	.012 (.85)	2-.228 (1.67)	.047 (.59)	.008 (.02)		2 2.146 (1.56)	.069 (.75)	.211	

Note: t ratios are given in parentheses.

1 Indicates coefficient significant at .01 level.

2 Indicates coefficient significant at .10 level.

TABLE 6.—ANALYSIS OF MALE BLACK EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966

Equation No. and dependent variable	Independent variables											R ²	F ratio
	Constant	Market share (M)	Concen- tration (C)	Log of asset size (S)	Advertising intensity (A)	Growth (E)	Regional dummies			Incidence (I)	Log of incidence (LI)		
							South (R1)	Middle States (R2)	North (R3)				
All 187 industrial firms:													
1. MB1	0.258 (1.27)	-0.002 (.72)	---	0.052 (1.54)	0.001 (.18)	0.001 (.01)	-0.059 (.45)	0.030 (.39)	-0.185 (1.11)	1 -0.259 (3.20)	---	0.078	1.66
2. MB3	.378 (1.64)	.004 (1.25)	---	.029 (.76)	1.025 (3.08)	.070 (1.30)	-.164 (1.10)	.026 (.79)	.346 (1.84)	1 -.269 (2.91)	---	.226	5.75
3. MB1	.257 (1.19)	---	-.001 (.12)	.047 (1.40)	.001 (.11)	-.004 (.09)	-.052 (.39)	.025 (.82)	-.176 (1.06)	1 -.252 (3.12)	---	.075	1.59
4. MB3	.262 (1.07)	---	.004 (1.63)	.025 (.67)	1.024 (2.84)	.063 (1.19)	-.155 (1.04)	.020 (.82)	1 -.387 (2.60)	1 -.290 (3.17)	---	.281	5.91
5. MB1	.060 (.21)	-.001 (.49)	---	2 .050 (1.73)	.001 (.21)	2 .075 (1.81)	1 -.370 (3.00)	.036 (.53)	.129 (.81)	1 -.198 (2.79)	1 3.525 (3.66)	.317	7.39
6. MB1	.032 (.11)	---	.001 (.49)	.044 (1.51)	.001 (.02)	.069 (1.64)	1 -.360 (2.91)	.028 (.42)	.131 (.83)	1 -.196 (2.77)	1 3.516 (3.66)	.317	7.36

Note: t ratios are given in parentheses.

1 Indicates coefficient significant at .01 level.

2 Indicates coefficient significant at .10 level.

TABLE 7.—ANALYSIS OF FEMALE EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966

Equation No. and dependent variable	Independent variables							R ²	F ratio		
	Constant	Fitted profit-ability	Residual profit-ability	Regional dummies			Producers good dummy			Incidence	Log of incidence
				South (R 1)	Middle States (R 2)	North (R 3)					
All 187 industrial firms:											
1. F1	12,409 (2.40)	0.003 (.04)	0.076 (1.02)	0.934 (.98)	² 1.828 (3.27)	-0.841 (.72)	² -2,248 (4.25)	0.156	4.84		
2. F3	12,796 (2.23)	² 3.16 (3.57)	1.161 (1.73)	1.999 (1.00)	1.312 (1.88)	-2.123 (1.46)	² -3,717 (5.63)	.284	10.14		
3. F1	³ -6,633 (3.05)	-.040 (.67)	-.076 (1.20)	² -1.576 (1.91)	² .900 (1.91)	-1.459 (1.49)	-607 (1.26)	.444	15.71		
4. F3	² -3,966 (1.42)	² .237 (3.10)	-.028 (.34)	1-1.816 (1.71)	.367 (.61)	1-2.40 (1.92)	1-1,562 (2.53)	.502	19.85		
89 consumer-goods firms:											
5. F1	² 16,848 (3.41)	-.057 (.56)	-.067 (.66)	1-2,851 (1.75)	.928 (1.01)	1-2,983 (2.06)	142,547 (5.72)	.503	10.13		
6. F3	-6,955 (1.12)	² .413 (3.20)	.044 (.34)	1-4,197 (2.06)	.412 (.36)	-2,454 (1.35)	² 26,295 (2.82)	.503	10.13		
99 producer-goods firms:											
7. F1	2,238 (1.28)	-.005 (.11)	-.088 (1.39)	.109 (.18)	1.681 (2.05)	.489 (.33)	1.017 (.29)	.185	2.24		
8. F3	4,151 (1.54)	-.023 (.30)	-.119 (1.23)	.695 (.76)	.067 (.13)	-735 (.32)	4,610 (.86)	.200	2.48		

Note: t ratios are given in parentheses.

¹ Indicates coefficient significant at 0.10 level.² Indicates coefficient significant at 0.01 level.

TABLE 8.—ANALYSIS OF FEMALE BLACK EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966

Equation No. and dependent variable	Constant	Market share	Concen- tration	Log of asset size (S)	Advertising intensity (A)	Growth (E)	Regional dummies				Incidence (I)	Log of incidence (LI)	R ²	F ratio
							South (R1)	Middle States (R2)	North (R3)	Producers good dummy (PD)				
All 187 industrial firms:														
1. FI	1 3.972 (2.74)	-0.008 (.40)		-0.367 (1.54)	-0.034 (.66)	1 0.960 (2.88)	0.365 (.39)	2 1.376 (2.47)	-0.910 (1.77)	1 -2.174 (3.77)			0.206	5.10
2. F3	1 7.722 (4.26)	2 .062 (2.41)		2 -.685 (2.30)	1 .196 (3.06)	2 .528 (1.27)	.731 (.02)	.632 (.90)	1 -2.432 (1.65)	1 -2.604 (3.73)			.323	9.39
3. FI	1 5.743 (3.86)		1 -.053 (.87)		.005 (.09)	1 1.167 (3.60)	.038 (.04)	1 1.603 (2.97)	.510 (.45)	1 -2.056 (3.71)			.259	6.87
4. F3	1 8.609 (4.41)			-461 (1.53)	1 .232 (3.51)	2 .775 (1.82)	.331 (.28)	2 .903 (1.27)	2 -2.501 (1.67)	1 -2.879 (3.96)			.304	8.60
5. FI	1 -7.347 (3.26)	-0.016 (.97)		-.047 (1.23)	2 -.082 (1.95)	1 .894 (3.29)	2 -1.762 (2.21)	2 .913 (1.97)	-1.327 (1.35)	2 -1.028 (2.07)	1 24.529 (7.00)	1 -2.150 (3.25)	.479	14.61
6. FI	1 .032 (.11)		.001 (.49)	-.044 (1.51)	.001 (.02)	2 .068 (1.64)	2 -.360 (2.91)	.028 (.41)	.131 (.83)	1 -.196 (2.77)	1 3.516 (3.66)	1 .058 (1.04)	.317	7.39

Note: Ratios are given in parentheses.

1 Indicates coefficient significant at 0.01 level.

2 Indicates coefficient significant at 0.10 level.

TABLE 9.—ANALYSIS OF MALE BLACK EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1970

Equation No. and dependent variable	Independent variables								R ²	F ratio
	Constant	Fitted profit-ability (FP)	Residual profit-ability (RP)	Regional dummies			Producers good dummy (PD)	Incidence (I)	Log of incidence (LI)	
				South (RI)	Middle States (R2)	North (R3)				
All 174 industrial firms:										
1. MB1	1 1.524 (5.04)	-0.0004 (.02)	-0.0007 (.03)	0.268 (.79)	-0.023 (.15)	1 -1.095 (3.32)	1 -0.553 (3.55)			0.118
2. MB3	1 1.461 (5.07)	.045 (2.21)	.013 (.64)	.266 (.82)	.043 (.32)	1 -1.473 (4.69)	1 -.728 (4.90)			.260
3. MB1	.781 (1.28)	.024 (1.37)	.010 (.64)	-1.098 (3.50)	.023 (.16)	-.324 (1.09)	1 -.365 (2.90)	1 0.200 (4.66)	0.169 (1.25)	.458
4. MB3	1 2.301 (3.53)	1 .053 (2.88)	.018 (.90)	-.444 (1.32)	.083 (.65)	2 -1.653 (2.07)	1 -.650 (4.81)	1 .992 (3.40)	1 .440 (3.04)	.423
80 consumer-goods firms:										
5. MB1	1 1.312 (1.42)	.010 (.37)	.019 (.81)	-.225 (.31)	.14 (.61)	-.361 (.79)		2 6.542 (2.19)	.238 (1.16)	.404
6. MB3	2 2.085 (2.02)	.066 (2.13)	.016 (.58)	-.069 (.08)	.160 (.65)	-.659 (1.29)		1 .553 (.47)	2 .425 (1.86)	.385
94 producer-goods firms:										
7. MB1	-.220 (.26)	.028 (1.22)	.0001 (.00)	1 -1.534 (4.75)	.007 (.05)	.231 (.51)		1 12.510 (4.24)	.039 (.18)	.502
8. MB3	2 1.819 (2.08)	.034 (1.46)	.013 (.49)	2 -.644 (1.94)	.054 (.35)	-.585 (1.25)		2 .543 (.84)	2 .432 (2.00)	.290

Note: ratios are given in parentheses.

1 Indicates coefficient is significant at 0.01 level.

2 Indicates coefficient is significant at 0.10 level.

TABLE 11.—ANALYSIS OF FEMALE EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1970

Equation number and dependent variable	Independent variables						R ²	F ratio
	Constant	Fitted profitability (FP)	Residual profitability (RP)	Producers good dummy (PD)	Incidence (I)	Log of incidence (LI)		
All 174 industrial firms:								
1. F1	1.331 (1.28)	1.185 (2.50)	0.063 (.86)	2 -2.317 14.19			0.165	8.35
2. F3	1 2.573 (4.61)	2.490 (4.61)	1.186 (1.77)	2 -4.478 (5.65)			.314	19.33
3. F1	2 -7.825 (3.04)	.099 (1.50)	-.028 (.43)	1 -1.181 (2.33)	2 23.878 (5.74)	2 -2.457 (2.89)	.395	18.19
4. F3	-5.205 (1.43)	2.330 (3.56)	-.040 (.44)	2 -2.535 (3.54)	2 27.181 (4.63)	-1.510 (1.26)	.518	23.85
80 consumer-goods firms:								
5. F1	1 -14.803 (2.18)	.109 (.86)	-.040 (.37)		2 36.722 (3.73)	1 -4.695 (1.90)	.381	9.07
6. F3	-5.391 (.61)	2.555 (3.32)	.054 (.38)		1 25.548 (1.98)	.098 (.03)	.492	14.34
94 Producer-goods firms:								
7. F1	1.278 (1.18)	.021 (.71)	1 -.082 (2.32)		2.428 (1.26)	.437 (1.33)	.334	8.82
8. F3	1 5.986 (2.39)	-1.103 (1.49)	1 -.189 (2.32)		5.912 (1.33)	1.192 (1.57)	.351	9.51

Note: Ratios are given in parentheses.

1 Indication coefficient significant at 0.10 level.

2 Indication coefficient significant at 0.01 level.

TABLE 12.—ANALYSIS OF FEMALE EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1970

Equation number and dependent variable	Independent variables							R ²	F ratio
	Constant	Market share (M)	Concentration (C)	Log of asset size (S)	Advertising intensity (A)	Growth (E)	Product is good dummy (PD)	Incidence (I)	Log of incidence (LI)
All 174 industrial firms:									
1. F1	1-7.571 (2.73)	2 0.030 (1.66)	-----	-0.005 (.03)	-0.040 (.85)	0.337 (1.10)	1 1.516 (2.68)	1 24.322 (5.75)	1 -2.546 (2.98)
2. F3	-2.764 (.71)	2 .063 (2.43)	-----	-.003 (.01)	1.193 (2.92)	-.073 (.17)	2 -1.944 (2.45)	1 25.934 (4.37)	-1.239 (1.08)
3. F1	1 -7.869 (2.69)	-----	0.012 (.81)	.045 (.22)	-.043 (.87)	.339 (1.09)	1 -1.552 (2.73)	1 24.610 (5.75)	1 -2.451 (2.86)
4. F3	-4.301 (1.05)	-----	.040 (1.90)	.076 (.27)	2 .174 (2.53)	-.118 (.27)	2 -2.004 (2.51)	1 26.960 (4.49)	-1.142 (.95)

Note: Ratios are given in parentheses.

1 Indicates coefficient significant at 0.01 level.

2 Indicates coefficient significant at 0.10 level.

TABLE 13.—ANALYSIS OF CHANGES IN MINORITY MEMBER EMPLOYMENT IN LARGE COMPANIES, 1966-70

Independent variables													
Equation number and dependent variable	Constant	Change in incidence (ΔIM)	Residual employment (R)	Fitted profitability (FP)	Residual profitability (RP)	Regional dummies			Producers good dummy (PD)	Market share (M)	Log of asset size (S)	Advertising intensity (A)	Growth (E)
						South (R1)	Middle States (R2)	North (R3)					
All 156 industrial firms:													
1. ΔMB3	{ 1.014 (4.60)	{ 24.202 (2.27)	---	0.007 (.45)	0.009 (.39)	0.035 (.14)	-0.095 (.79)	1-1.055 (4.57)	1-0.312 (2.72)	---	---	---	---
2. ΔMB3	{ 1.085 (4.88)	---	6.830 (.64)	.008 (.51)	.010 (.65)	.074 (.30)	-.113 (.93)	1-1.076 (4.58)	2-.300 (2.57)	---	---	---	---
3. ΔMB3	{ .304 (1.06)	---	2.263 (.20)	---	---	---	---	---	-.188 (1.38)	-0.003 (.61)	20.123 (2.45)	20.121 (1.87)	0.011 (.15)
4. ΔF3	{ .159 (.18)	-.793 (.59)	---	.081 (1.31)	2.133 (2.13)	---	---	---	-.551 (1.18)	---	---	---	---
5. ΔF3	{ .097 (.12)	---	1-16.445 (3.19)	.087 (1.46)	2.127 (2.11)	---	---	---	-.575 (1.27)	---	---	---	---
6. ΔF3	{ 1.755 (1.62)	---	1-20.473 (3.96)	---	---	---	---	---	.242 (.47)	-.002 (.09)	-.191 (1.01)	1.157 (3.62)	-.408 (1.29)
All 188 industrials, banks, and utilities:													
7. ΔF3	{ 23.536 (1.94)	---	149.914 (4.92)	2-.231 (1.81)	2-.212 (1.80)	---	---	---	.811 (.85)	---	---	---	---
8. ΔF3	{ 14.966 (3.42)	---	14.8787 (4.90)	---	---	---	---	---	1.749 (1.54)	-.030 (1.24)	1-.624 (2.71)	2-.156 (1.68)	-.497 (.78)

¹ Indicates coefficient significant at 0.01 level.² Indicates coefficient significant at 0.10 level.

Note: Ratios are given in parentheses.

TABLE 14.—ANALYSIS OF CHANGES IN MINORITY MEMBER EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966-70

Equation number and dependent variable	Independent variables											R ²	F ratio	
	Constant	Change in incidence (ΔI)	Residual employment (R)	Fitted profitability (FP)	Residual profitability (RP)	Regional dummies			Market share (M)	Log of asset size (S)	Advertising intensity (A)			Growth (E)
						South (R1)	Middle States (R2)	North (R3)						
70 consumers goods firms:														
1. $\Delta MB3$	{ -0.278 (.59)	-----	5.303 (.36)	-----	-----	-----	-----	-----	-0.008 (1.14)	0.238 (2.73)	0.021 (1.56)	0.102 (.82)	0.147	1.90
2. $\Delta MB3$	{ .370 (.70)	-----	-----	-----	-----	0.123 (.23)	0.059 (.29)	1-1.001 (3.15)	2- (1.70)	2-.158 (1.74)	2-.021 (1.68)	-.035 (.29)	.288	3.08
3. $\Delta F3$	{ -.294 (.18)	-----	-1.633 (.11)	0.116 (.98)	0.176 (1.64)	-----	-----	-----	-----	-----	-----	-----	.057	.99
86 producer-goods firms:														
4. $\Delta F3$	{ .355 (.72)	-----	1-16.938 (2.84)	.010 (.22)	.013 (.25)	-----	-----	-----	2- (1.85)	.116 (1.03)	2-.411 (2.32)	300 (1.59)	.091	2.03
5. $\Delta F3$	{ -.171 (.24)	1-17.796 (3.06)	-----	-----	-----	-----	-----	-----	2- (1.025)	.182 (1.56)	298 (1.64)	2-354 (1.80)	.215	3.62
6. $\Delta F3$	{ -.566 (.77)	-----	-----	-----	-----	-----	-----	-----	2- (1.89)	-----	-----	-----	.123	2.24

Note: Ratios are given in parentheses.

1 Indicates coefficient significant at 0.01 level.

2 Indicates coefficient significant at 0.10 level.

TABLE 15. CITY BASED (SMSA) ANALYSIS OF MALE BLACK EMPLOYMENT IN LARGE INDUSTRIAL FIRMS, 1966

Equation number and dependent variable	Independent variables												R ²	F Ratio	
	Constant	Market share (M)	Asset size (S)	Advertising intensity (A)	Growth (E)	Fitted profitability (EP)	Residual profitability (RP)	Producers good dummy (PD)	SMSA participation rates (PM)	Log of nonwhite population (LNWP)	Log of white population (LPOP)	Percent change in population (Δ POP)			Unemployment rate (U)
All 431 industrial cases:															
1. MB1	-9.457 (1.44)	1.064 (3.07)	-0.001 (1.34)	-0.065 (.99)	-0.401 (1.36)			-0.751 (1.20)	-0.516 (.33)	1.226 (1.38)	2 1.164 (1.99)	-0.073 (1.41)	1-1.278 (3.18)		0.079
2. MB1	-8.896 (1.37)	1.064 (3.07)	-0.001 (1.35)	-0.084 (1.29)	-2.248 (.81)			-5.91 (.95)	-5.41 (.29)	.860 (.96)	2 1.153 (1.98)	-.048 (.93)	1-1.191 (2.98)	14.598 (2.94)	.097
3. MB1	-10.779 (1.66)					2 0.144 (2.46)	1.277 (3.58)	2 -.936 (1.79)	-.897 (.58)	1.420 (1.60)	2 1.198 (2.07)	2 -.092 (1.79)	1-1.224 (3.07)		.086
4. MB1	-10.937 (1.70)					1.174 (2.99)	1.296 (3.84)	-7.96 (1.53)	-.878 (.58)	1.072 (1.21)	2 1.221 (2.14)	-0.066 (1.28)	1-1.102 (2.73)	15.052 (3.31)	.109
5. MB3	-7.393 (1.82)	1.066 (4.57)	-0.001 (2.32)	-0.011 (.24)	.054 (.27)			2 -.905 (2.11)	.535 (.80)	.715 (1.49)	1.952 (2.56)	-0.033 (.91)	1-.965 (3.75)		.137
6. MB3	-7.056 (1.78)	1.065 (4.63)	-0.001 (2.70)	.009 (.20)	.217 (1.09)			2 -.736 (1.75)	.529 (.81)	.361 (.76)	1.972 (2.65)	-.008 (.23)	1-.879 (3.41)	14.897 (4.65)	.179
7. MB3	-9.38 (3.44)	1.065 (4.64)	-0.002 (2.67)	.009 (.226)	.222 (1.11)			2 -.746 (1.78)		2 3.31 (4.61)	1.184 (2.65)	-.020 (.598)	1-.854 (3.41)	14.894 (4.65)	.178
8. MB3	-7.511 (1.84)					1.144 (3.54)	.031 (.57)	2 -.743 (2.04)	.502 (.74)	.661 (2.55)	2.962 (4.61)	-.035 (.95)	1-.988 (3.78)		.111
9. MB3	-7.854 (1.97)					1.174 (4.32)	.049 (.93)	2 -.609 (1.70)	.471 (.71)	.348 (.73)	1.002 (2.72)	-.011 (.29)	1-.870 (3.39)	14.882 (4.65)	.155

¹ Indicates coefficient significant at 0.01 level.
² Indicates coefficient significant at 0.10 level.

Note: Ratios are given in parentheses.

TABLE 16.—CITY BASED (SMSA) ANALYSIS OF MALE BLACK EMPLOYMENT IN LARGE INSUDTRIAL FIRMS, 1966

Equation number and dependent variable	Independent variables											R ²	F ratio		
	Constant	Market share (M)	Asset size (S)	Adver- tising intensity (A)	Growth (E)	Fitted profit- ability (FP)	Residual profit- ability (RP)	Producers' good dummy (PD)	SMSA participation rates (PM)	Log of popu- lation (LPOP)	Percent change in popu- lation (Δ POP)			Unem- ployment Rates (U)	Incidence (I)
All 431 industrial cases:															
1. F1	(-11.991 (2.26)	1 0.075 (2.29)	-0.001 (2.73)	-0.139 (1.36)	-0.076 (.17)	-----	-----	2 -4.260 (4.34)	0.175 (1.27)	2 2.022 (3.30)	0.051 (.72)	-0.652 (.97)	-----	0.098	4.56
2. F1	(-3.215 (.67)	1 .039 (1.32)	1 -.003 (1.75)	-.131 (1.44)	-.123 (.31)	-----	-----	2 -3.058 (3.48)	-.023 (.19)	.116 (.20)	.013 (.21)	.471 (.77)	2 19.823 (10.74)	.292	15.71
3. F1	(-12.800 (2.41)	-----	-----	-----	-----	.096 (1.05)	2 .355 (2.92)	2 -3.250 (3.94)	.179 (1.30)	2 1.962 (3.23)	.032 (.45)	-.513 (.85)	2 19.879 (10.68)	.096	5.61
4. F1	(-2.963 (.62)	2 .156 (3.86)	2 -.001 (3.39)	-.167 (1.32)	2 -.167 (1.53)	-.015 (.18)	.149 (1.36)	2 -2.312 (3.14)	-.024 (.20)	.062 (.11)	.001 (.02)	.519 (.85)	2 19.879 (10.68)	.238	18.82
5. F3	(-22.032 (2.81)	2 .096 (2.98)	1 -.001 (2.30)	-.149 (1.43)	1 -.922 (2.05)	-----	-----	2 -5.254 (4.34)	1.438 (2.22)	2 3.492 (4.47)	.148 (1.50)	1 -1.977 (2.55)	2 32.313 (15.88)	.136	6.60
6. F3	(-8.37 (.13)	2 .096 (2.98)	1 -.001 (2.30)	-.149 (1.43)	1 -.922 (2.05)	-----	-----	2 -3.235 (3.35)	.012 (.08)	.115 (.18)	.012 (.16)	-.332 (.54)	2 32.313 (15.88)	.460	32.42
7. F3	(-22.061 (2.78)	2 .096 (2.98)	1 -.001 (2.30)	-.149 (1.43)	1 -.922 (2.05)	.096 (.84)	.408 (2.70)	2 -4.238 (4.13)	1.467 (2.35)	2 3.424 (4.37)	.120 (1.21)	1 -1.940 (2.48)	2 33.011 (15.93)	.113	6.71
8. F3	(-1.362 (.21)	-----	-----	-----	-----	-.082 (.30)	.064 (.52)	2 -2.639 (3.22)	.024 (.15)	-.006 (.01)	-.006 (.08)	-.419 (.67)	2 33.011 (15.93)	.447	37.92

Note: t ratios are given in parentheses.

1 Indicates coefficient significant at 0.10 level.

2 Indicates coefficient significant at 0.01 level.

APPENDIX A. FIRMS INCLUDED IN 1966 AND 1970 ANALYSES

Sales rank 1967 and firm name	Included in analysis for—		Sales rank 1967 and firm name	Included in analysis for—	
	1966	1970		1966	1970
Industrial firms:					
1. General Motors.....	X	X	143. Standard Oil (Ohio).....	X	X
3. Ford.....	X	X	144. Continental Baking.....	X	X
4. General Electric.....	X	X	146. General Mills.....	X	X
5. Chrysler.....	X	X	148. Phillip Morris.....	X	X
6. Mobil.....	X	X	149. Sunray DX Oil.....	X	X
7. IBM.....	X	X	154. Quaker Oats.....	X	X
8. Texaco.....	X	X	155. Anheuser-Busch.....	X	X
9. Gulf.....	X	X	157. Hormel.....	X	X
10. U.S. Steel.....	X	X	163. Merck.....	X	X
12. Standard Oil (California).....	X	X	164. Pillsbury.....	X	X
13. DuPont.....	X	X	168. DelMonte.....	X	X
14. Shell.....	X	X	170. American Smelting and Refining.....	X	X
15. RCA.....	X	X	172. Phelps Dodge.....	X	X
20. Swift.....	X	X	174. Time Inc.....	X	X
22. Goodyear.....	X	X	177. Kennecott Copper.....	X	X
24. Bethlehem.....	X	X	180. Avon Products.....	X	X
26. International Harvester.....	X	X	183. Pet.....	X	X
27. Procter & Gamble.....	X	X	186. Container Corp.....	X	X
29. Eastman Kodak.....	X	X	189. Otis Elevator.....	X	X
31. National Dairy Products.....	X	X	192. Sterling Drug.....	X	X
34. Armour.....	X	X	194. Kellogg.....	X	X
35. Continental Oil.....	X	X	195. Lever Brothers.....	X	X
36. Philips Petroleum.....	X	X	199. Gillette.....	X	X
37. Firestone.....	X	X	201. Seagram.....	X	X
40. General Foods.....	X	X	205. Allegheny Ludlum Steel.....	X	X
42. Borden.....	X	X	209. Eli Lilly.....	X	X
45. American Can.....	X	X	214. Oscar Meyer.....	X	X
48. Caterpillar Tractor.....	X	X	216. Kaiser Steel.....	X	X
50. International Paper.....	X	X	218. Cerro.....	X	X
51. Union Oil.....	X	X	220. Liggett and Myers.....	X	X
52. Continental Can.....	X	X	225. Owens-Corning Fiberglas.....	X	X
55. Burlington Industries.....	X	X	227. International Milling.....	X	X
56. Alcoa.....	X	X	228. General Cable.....	X	X
57. Signal Oil.....	X	X	229. U.S. Gypsum.....	X	X
59. Atlantic Richfield.....	X	X	230. Polaroid.....	X	X
60. Ralston Purina.....	X	X	233. Addressograph-Multigraph.....	X	X
62. Republic Steel.....	X	X	236. Timken Roller Bearing.....	X	X
66. R. J. Reynolds.....	X	X	240. Hygrade Food Products.....	X	X
67. Sun Oil.....	X	X	242. Fruehauf.....	X	X
68. Armco Steel.....	X	X	243. ACF Industries.....	X	X
70. Celanese.....	X	X	245. Libby, McNeill and Libby.....	X	X
73. Deere.....	X	X	246. Revere Copper and Brass.....	X	X
74. Corn Products.....	X	X	253. Land O'Lakes Creameries.....	X	X
76. Anaconda.....	X	X	254. McGraw-Hill Publishing.....	X	X
78. Coca-Cola.....	X	X	255. Brown Shoe.....	X	X
81. Colgate Palmolive.....	X	X	264. Cummins Engine.....	X	X
82. National Steel.....	X	X	269. Schlitz.....	X	X
85. Inland Steel.....	X	X	270. Abbott Laboratories.....	X	X
86. American Home Products.....	X	X	271. Crown Cork and Seal.....	X	X
88. Owens-Illinois.....	X	X	272. American Bakeries.....	X	X
89. National Cash Register.....	X	X	273. Times Mirror.....	X	X
91. American Tobacco.....	X	X	278. Crucible Steel.....	X	X
93. Pittsburgh Plate Glass.....	X	X	280. Cannon Mills.....	X	X
96. Jones and Laughlin.....	X	X	281. Revlon.....	X	X
98. Weyerhaeuser.....	X	X	287. Wheeling Steel.....	X	X
99. Carnation.....	X	X	288. Ward Foods.....	X	X
100. Genesco.....	X	X	291. Upjohn.....	X	X
105. Georgia-Pacific.....	X	X	292. Richardson-Merrell.....	X	X
106. Ashland Oil and Refining.....	X	X	300. Cone Mills.....	X	X
108. Campbell Soup.....	X	X	302. R. R. Donnelly and Sons.....	X	X
109. J. P. Stevens.....	X	X	303. Peabody Coal.....	X	X
111. Crown Zellerbach.....	X	X	304. Smith Kline and French.....	X	X
113. American Motors.....	X	X	306. Dan River Mills.....	X	X
115. Kaiser Aluminum & Chemical.....	X	X	308. Libby-Owens-Ford.....	X	X
119. National Biscuit.....	X	X	311. Texas Gulf Sulphur.....	X	X
121. National Lead.....	X	X	315. Hershey Foods.....	X	X
123. Bristol-Myers.....	X	X	318. Stokely Van Camp.....	X	X
125. St. Regis Paper.....	X	X	320. Springs Mills.....	X	X
126. Xerox.....	X	X	322. Parke, Davis.....	X	X
128. Marathon Oil.....	X	X	328. Outboard Marine.....	X	X
129. H. J. Heinz.....	X	X	335. Electric Storage Battery.....	X	X
130. Combustion Engineering.....	X	X	336. Hart Schaffner and Marx.....	X	X
131. Kimberly Clark.....	X	X	342. Cessna Aircraft.....	X	X
132. Pepsico.....	X	X	343. T. J. Lipton.....	X	X
133. Warner-Lambert.....	X	X	344. CFI Steel.....	X	X
134. Zenith.....	X	X	349. Allied Mills.....	X	X
138. Chas. Pfizer.....	X	X	351. Champion Spark Plug.....	X	X
141. Babcock and Wilcox.....	X	X	352. Joy Manufacturing.....	X	X
142. Scott Paper.....	X	X			

APPENDIX A. FIRMS INCLUDED IN 1966 AND 1970 ANALYSES

Sales rank 1967 and firm name	Included in analysis for—		Sales rank 1967 and firm name	Included in analysis for—	
	1966	1970		1966	1970
354. McLouth Steel.....	X		Utilities:		
357. Simmons.....	X		A.T. & T.....	X	X
362. Anchor-Hocking Glass.....		X	Consolidated Edison.....		X
364. Gerber.....	X	X	Pacific Gas and Electric.....	X	X
365. Murphy Oil.....	X	X	Southern California Edison.....	X	X
366. Miles Laboratories.....	X	X	Commonwealth Edison.....	X	X
367. Square D.....	X	X	Philadelphia Electric.....	X	X
368. Interstate Bakeries.....	X	X	Detroit Edison.....	X	X
370. U.S. Shoe.....	X	X	People's Gas Light & Coke.....	X	X
371. New York Times.....		X	Union Electric.....	X	X
372. Purex.....	X	X	Northern States Power.....	X	X
377. Lone Star Cement.....	X	X	Baltimore Gas & Electric.....	X	X
385. Sharon Steel.....	X	X	Western Union.....	X	X
387. Air Products and Chemicals.....	X	X	Houston Lighting & Power.....	X	X
388. Mohasco.....	X		Boston Edison.....	X	X
389. National Can.....	X	X	Commercial banks:		
390. Handy and Horman.....	X	X	Bank of America.....		X
400. Beech Aircraft.....	X	X	Chase Manhattan.....		X
402. International Silver.....	X	X	Manufacturers Hanover Trust.....	X	X
404. Freeport Sulphur.....	X	X	Morgan Guaranty Trust of N.Y.....	X	X
411. Clark Oil.....	X	X	Chemical Bank New York Trust.....	X	X
413. Inland Container.....	X	X	Bankers Trust (New York).....	X	X
415. Chesebrough-Pond's.....	X	X	Continental Illinois National Bank & Trust.....	X	X
420. Armstrong Rubber.....	X	X	First National Bank of Chicago.....	X	X
423. U.S. Pipe and Foundry.....	X	X	Security First National Bank (Los Angeles).....	X	X
424. Canada Dry.....		X	Wells Fargo Bank (San Francisco).....	X	X
425. Falstaff.....	X	X	United California Bank (Los Angeles).....	X	X
436. Rayonier.....	X		Mellon National Bank & Trust (Pittsburgh).....	X	X
444. Ideal Basic Industries.....	X	X	National Bank of Detroit.....	X	X
451. Carpenter Steel.....	X	X	First National Bank of Boston.....	X	X
452. Pitney-Bowes.....		X	First Pennsylvania Banking & Trust (Philadelphia).....	X	X
457. Wm. Wrigley Jr.....	X	X	Detroit Bank & Trust.....	X	X
458. Union Tank Car.....	X	X	Philadelphia National Bank.....	X	X
469. Ceco Steel Products.....	X	X	Harris Trust & Savings Bank (Chicago).....	X	X
479. Granite City Steel.....	X	X	Pittsburgh National Bank.....	X	X
480. Endicott Johnson.....	X	X	Bank of California (San Francisco).....	X	X
483. Maytag.....	X	X	Union Bank (Los Angeles).....		X
490. Max Factor.....	X	X	Citizens and Southern National Bank (Atlanta).....	X	X
492. Consolidated Cigar.....	X		Northern Trust (Chicago).....	X	X
498. P. R. Mallory.....	X	X	Mercantile Trust (St. Louis).....	X	X
Industrial firms below the largest 500:			Fidelity Bank (Philadelphia).....	X	X
American Crystal Sugar.....	X	X	First City National Bank of Houston.....	X	
American Maize Products.....	X	X			
Briggs and Stratton.....	X	X			
Holly Sugar.....	X	X			
Masonite.....	X	X			
Mohawk Rubber.....	X	X			
Olympia Brewing.....	X	X			
Peter Paul.....	X	X			

APPENDIX B.—15 SMSA'S INCLUDED IN THE ANALYSIS; ATTRIBUTES, 1966

SMSA	Population 1966 (thousands)	Percent		
		Population nonwhite 1966	Population growth, 1960 to 1966	Unemploy- ment rate, 1966
Atlanta.....	1,258	22.8	23.7	2.8
Baltimore.....	1,980	21.6	9.8	2.9
Birmingham.....	734	32.1	1.8	4.1
Boston.....	2,695	3.4	3.0	3.6
Chicago.....	6,732	14.8	8.2	2.6
Detroit.....	4,060	15.1	7.9	3.3
Houston.....	1,740	19.8	22.7	2.4
Los Angeles.....	6,789	9.7	12.4	4.5
Minneapolis-St. Paul.....	1,629	1.8	9.9	2.2
New Orleans.....	1,044	30.9	15.0	3.2
New York.....	11,410	12.0	6.7	4.2
Philadelphia.....	4,690	15.7	8.0	3.3
Pittsburgh.....	2,376	6.8	-1.2	2.9
St. Louis.....	2,284	14.2	8.5	3.3
San Francisco.....	2,958	12.5	11.7	4.4

TABLE CL.—1966 EMPLOYMENT TOTALS IN VARIOUS CATEGORIES

	Officials and managers	Profes- sionals	Techni- cians	Sum of these 3 groups	Sales workers	Office and clerical	Craftsmen	Operatives	Labourers	Service	Total employment
Industrials:											
Male	357,571	285,430	178,554	821,555	163,198	214,241	690,440	1,361,325	344,559	93,313	3,688,531
Male black	1,843	1,404	2,600	5,847	1,922	6,044	22,268	189,675	72,519	21,767	320,042
Female	5,488	8,002	14,223	27,713	8,191	289,337	12,892	316,663	93,477	12,442	760,715
Female black	101	113	316	530	154	5,091	277	22,554	11,549	2,065	42,220
Banks:											
Male	17,739	3,681	639	22,059	502	27,361	538	757	163	3,984	55,364
Male black	81	35	24	140	5	1,487	22	96	109	706	2,565
Female	1,966	592	243	2,801	75	59,601	19	389	0	1,560	64,415
Female black	48	8	34	90	1	3,853	1	54	0	162	4,161
Utilities:											
Male	13,942	13,105	8,535	35,582	1,627	15,808	38,954	17,880	3,308	2,440	115,599
Male black	34	64	63	161	23	1,119	516	1,123	3,713	657	4,312
Female	1,563	987	464	3,014	305	28,310	1,770	34	3	560	33,996
Female black	14	13	12	39	7	2,106	34	2	0	242	2,430

TABLE C2.— 1970 EMPLOYMENT TOTALS IN VARIOUS CATEGORIES

	Officials and managers	Professionals	Technicians	Sum of these 3 groups	Total employment
Industrials:					
Male.....	434,073	343,898	202,608	980,579	3,843,750
Male black.....	6,368	4,869	6,251	17,488	404,494
Female.....	6,270	16,287	16,405	38,962	827,216
Female black.....	150	623	921	1,694	82,248
Banks:					
Male.....	26,933	5,584	2,250	34,767	72,186
Male black.....	469	208	245	922	7,854
Female.....	4,284	1,744	642	6,670	107,970
Female black.....	236	74	75	385	15,849
Utilities:					
Male.....	19,061	14,873	14,264	48,198	145,844
Male black.....	161	198	412	925	9,227
Female.....	1,303	1,514	566	3,383	40,293
Female black.....	91	44	42	177	6,429
National (1969):					
Male.....	2,286,971	1,798,192	930,493	5,015,656	18,912,707
Male black.....	29,027	25,299	31,490	85,816	1,740,426
Female.....	258,630	540,629	310,109	799,259	9,686,006
Female black.....	9,063	24,353	37,942	71,340	980,077

TABLE D1.—LOWEST PERFORMERS, MB1 IN 1970

Firm:	Residual MB1 value
Large tea and food company.....	-1.52
Large baby food seller.....	-1.52
Middle-range oil producer.....	-1.52
Large chewing gum producer.....	-1.52
Large chocolate and candy producer.....	-1.49
Middle-range meatpacker.....	-1.39
Large canned food producer.....	-1.30
Large drug producer.....	-1.25
Large canned food producer.....	-1.18
Large shoe producer.....	-1.13
Large photographic supplies producer.....	-1.02
Large silverware producer.....	-1.00
Large copper and brass producer.....	-.97
Large air products seller.....	-.97
Middle-range oil producer.....	-.97

TABLE D2.—LOWEST PERFORMERS, MB3 IN 1970

Firm:	Residual MB3 value
Large chocolate and candy producer.....	-1.91
Large chewing gum producer.....	-1.82
Large canned food producer.....	-1.71
Large shoe producer.....	-1.66
Middle range meatpacker.....	-1.64
Large baby food producer.....	-1.56
Large photographic supplies producer.....	-1.53
Middle range oil producer.....	-1.47
Large paper products maker.....	-1.43
Large coal producer.....	-1.29
Large copper and brass producer.....	-1.17
Large canned milk producer.....	-1.09
Large cigarette producer.....	-1.06
Large bleach producer.....	-1.04
Specialized office machine producer.....	-1.01

TABLE D3.—LOWEST PERFORMERS, F3 IN 1970

Firm:	Residual MB3 value
Large automobile producer.....	-9.70
Leading regional beer producer.....	-9.23
Large cigarette producer.....	-8.18
Large pop producer.....	-7.61
Large cereals producer.....	-7.38
Middle-range washing machine producer.....	-7.33
Large copying-machine producer.....	-6.97
Large photographic supplies producer.....	-6.76
Large beer producer.....	-6.63
Large rubber products maker.....	-6.36
Large chocolate and candy producer.....	-6.07
Large chewing gum producer.....	-6.03
Large automobile producer.....	-5.91
Do.....	-5.90
Large beer producer.....	-5.30
Large baker.....	-5.24
Large office machine producer.....	-5.16

TABLE D4.—IMPLIED UNDER-REPRESENTATION OF WOMEN IN THE UPPER 3 WHITE-COLLAR JOB CATEGORIES
IN LARGE INDUSTRIAL FIRMS, 1970

Company:	Implied under- represent- ation; numbers of women employees, 1970
Large office machine producer.....	-1,826
Large automobile producer.....	-1,344
Large copying-machine producer.....	-536
Large electrical equipment producer.....	-490
Large photographic supplies firm.....	-331
Large automobile producer.....	-272
Do.....	-264
Large rubber products maker.....	-134
Do.....	-90
Large cash register producer.....	-70
Large earthmoving equipment producer.....	-53
Large soaps and detergent producer.....	-43
Large steel producer.....	-41
Do.....	-37
Large aluminum producer.....	-33
Large beer producer.....	-30
Total, these firms.....	-5,574
As a percent of women in all industrial firms in these job categories.....	18.2

MR. SHEPHERD. In case any hardworking person wants to dig through the numbers, there certainly isn't any numerical basis for thinking that size is a source of greater opportunity. In fact, there may be a tendency for the black or woman token member to be spread further in a big corporation than he or she would in a little one. A company one-tenth the size of a big one would need one just as much as a big company does. And so 10 small firms will take 10 while the one big one needs only one. I am being slightly facetious. But I do think there is some element of this in the real world.

I wouldn't want to claim, though, that no companies are doing very well in this. There are some good performers. There are clear exceptions to the depressing general rule. Yet IBM gives an example that a company can be liberal in one direction, but not in another. IBM is sometimes said to be a leader in hiring blacks, but it clearly is among the weaker performers in hiring women at upper levels.

SENATOR HART. Your answer there reminds me that in Miss Van Horn's prepared statement, she comments on IBM. And I would like to ask her to explain a little more fully the circumstances.

You say that the influence of IBM on our Government should not be used to keep Japanese computers out of the U.S. market. And this gets back to the business of who is hurt. But the duty on computers coming in now is 6 percent. Are you suggesting that we are keeping the Japanese computers out by means other than, and in addition to, the 6 percent duty?

MISS VAN HORN. No, I am not.

SENATOR HART. I am glad I asked.

MISS VAN HORN. And I am not complaining about the 6 percent either. As I indicated, IBM has been helpful in writing our new economic policy. And there is a belief among some of the smaller concerns in the computer field that IBM is going to save them from the Japanese computers vendors. The Japanese have quite a potential market for computers here. I have no idea what the Government plans to do to keep them out. My feeling is that the computer technology was once one of our proud technologies, and that if all we can do now to face competition is keep it out, by protectionism then we have really lost the ballgame. If we didn't have the very sick situation we have in the computer industry because of IBM's domination, we would have incredible products and there would be no touching us anywhere. And if we have fallen behind, it is because we have not dealt with the monopoly situation in this industry. And that is why I say, it is very sad, if the only solution we have now is to keep the Japanese out by building a tall wall. I hope that is not it. The other side of the coin is, if the only competition IBM is going to have in the future is the Japanese, we should at least let them have that.

SENATOR HART. I am reminded that you comment also in your prepared statement in a fashion critical of the notion that we should—I think you were critical of the suggestion that we should permit anti-trust exemption and immunity to American firms at least as relates to their overseas activities. I read that part.

MISS VAN HORN. Yes. In this Williams Commission Report they are recommending that our antitrust laws be modified not just to permit overseas joint marketing arrangements, but also they should be modified here. In the area of transfer of capital, they said that we should have no barriers at all to transfer of capital out of the country.

We have some now. They suggest that there would be foreign capital transfer coming back, and that one reason foreigners don't invest here now is because of our domestic antitrust laws, which I think is complete hokum. There have been comments recently in the press by European economists who, in particular on the question of why foreign capital isn't invested here, and they name a number of things, some of the tax laws, some of the inheritance laws, and so forth. In the article I saw in the New York Times, I didn't see any of them saying that they weren't investing here because of the antitrust laws.

Mr. BARMASH. Could I make a comment about that?

Senator HART. Yes.

Mr. BARMASH. One thing that has intrigued me about this subject of antitrust enforcement has been that the advocates of greater enforcement appear to feel that an extreme is required, whereas the Justice Department and the Antitrust Division in the last couple of years, or at least while McLaren was the top man, have been very aggressive, so much so, as I have pointed out in my book—and I am not quite certain of what he thought of it—but I think it was to the discomfiture of Mr. Mitchell, and possibly the President, a possibility that seems to be at least partially credible from the standpoint of Mr. McLaren's sudden departure some weeks ago.

So what I am trying to bring out is this. On the one hand you have very apparent aggressive enforcement policy for about 2 years, from 1968 to 1970, and part of 1971. And on the other hand, you have the zealots who insist that American business is completely monopolistic and so on, which cannot be true, because nothing is either one extreme or all the other. But we have strong pockets of monopoly. And we have the pockets of great competition, almost too much, where the fragmentation of business is so vast that you have a constant ebbing and flowing of bankruptcies, and so on, such as you have in the retail business.

That is just a point I felt was worthy of mention. I have not seen this brought out about this big gap between what the Government has done. Believe me, most men don't think that the Justice Department has been very liberal. Now, I am sure the critics of the Justice Department, like Mr. Nader, feel otherwise. You have got this big gap existing.

Senator HART. It is not the only area where you have that sharp division on a set of facts that are chapter and verse available to both sides, and each side makes an absolute judgment.

I believe with you that the performance of the Antitrust Division under Mr. McLaren was good. That I might have done things differently if I had been there I don't doubt. Who wouldn't? But in contrast, in comparison with his predecessors, I think his performance was good. And I have heard the suggestion that it was so good that he was kicked upstairs. I find no basis for that. He couldn't have been good if the Attorney General and the President really hadn't supported him. It can be said that they got tired of supporting him.

Miss VAN HORN. I don't know of all the things that the Justice Department has been doing in the last 3 years in the area of antitrust enforcement. A suit against IBM was filed on the very last day of the Johnson administration. So the administration has had a full 3 years to work on it. They have made very little progress.

Mr. CHUMBERIS. You might ask that question as to why they waited until the last day to file it and dump it on somebody else's lap.

Miss VAN HORN. But it was in the hopper on day 1 of the Nixon administration.

I was talking to an executive of RCA's computer division just recently, and a team of three came from the Justice Department to talk to him fairly recently. And he said when he finished talking to them he was so depressed he went out and bought more IBM stock. He said that after 3 years they had no idea how IBM was structured. And he said he didn't know how many people at Justice Department had on the case, but he understood IBM had 300. And I have been told by the Justice Department that they had 12. But some of them are part-time. So I think that there is a serious problem as to the inequality of the contest. And there is also a serious problem in that the computer industry is getting sicker every day. And it seems to me that there might be something that could be done in the way of injunctive action, which the Justice Department has never considered.

There is also the question of why the suit did not request recovery of excess monopoly pricing. This should be recovered and not just for the Government, for all the users. I asked the Justice Department why wasn't it included, or whether or not the case could be modified to request return of excess monopoly pricing, a great portion of which would return to the Federal Government directly or indirectly, because much of the IBM sales are to the aircraft industry, to research outfits, and to universities, and a great deal of it would flow back to the Federal Government on cost-plus contracts, taxes, and so forth.

The answer I got was, well, it would take us 3 months to look into that question, and it may be that the statute of limitations has run out, and you wouldn't want us to delay our case 3 months to look into that question, would you, Miss Van Horn? And the conversation trailed off at that point.

I would estimate that there are many billions of dollars involved, and why they filed that suit without the obvious corollary of trying to recover the excess pricing the Government itself has been paying over the years, I don't know. But it seems that after 3 years they could take 3 months to look into it.

Senator HART. Professor Shepherd.

Mr. SHEPHERD. I would like to talk about these broader questions of antitrust, if I may.

I was Dr. Turner's economic adviser at the Antitrust Division during much of that last year when the economic case against IBM was being prepared. I guess that I deserve the credit or blame for the main economic basis for that case as it finally was brought.

I agree with Miss Van Horn's statement about the slowness of Antitrust Division leadership in the recent past to push this along. The fundamental lesson which I draw from the IBM case is that the antitrust laws can be applied if those in charge have nerve and skill. The laws are there, and suits can be brought. And in recent research of my own about these large corporations, I have outlined the specific potential returns that might be available from antitrust cases or by other techniques, specifically against 12 or 15 of the largest corporations. These findings will be published soon, I hope. In any event, IBM is right up there at the head of the list. So at the very least the IBM

case—above all—should be brought to trial quickly and prosecuted vigorously. It hasn't been, in the 3 long years since it was filed on January 17, 1969.

There is no question that IBM has managed to slow and stall the prosecution. And since it is worth at least a million dollars a day to IBM to have this delay in terms of the profit it might lose if executive remedies were applied, one can understand why they would like to delay the case as much as possible.

So in any case, the laws are there, and they could be applied. There is a lot of choice in the Antitrust Division about directions in which it should act. Mr. Claren got lots of cheap praise for being aggressive—in one direction only.

Senator HART. The reasons I praised him for doing it is because we have been screaming that they ought to try to test the laws. And finally a fellow came along that did it.

Mr. SHEPHERD. Absolutely. And this was good. But logic and empirical facts suggest that there were other things that he should have also tried. The conglomerates were, in my opinion, the bush leagues. The big league is established concentration. And what was his track record on this? He didn't push IBM ahead, nor did he go ahead with any of the other more obvious candidates, such as Western Electric, or some of the other light oligopolists that have been at the center of recent discussions. It was not so much that they definitely need to be changed, but simply that the Antitrust Division leadership was apparently not even thinking hard about them.

So it is this situation, I am afraid, which means that we have to think about legislation or some other route to deal with the hard cases. I regret it. But I suppose we ought to expect that there won't be aggressive application of the antitrust laws by any foreseeable Assistant Attorneys General. If the opposite were true, then hearings and new legislation would not be necessary.

I did want to state my opinion that the laws are there, and the main need is for nerve and skill, strategic skill, in bringing the cases and using the law.

Senator HART. You say that existing law is available and could reach established oligopoly power or monopoly power. And everyone can have their own opinion whether action can be expected against such concentrations out of any Department of Justice. And then you say, if you conclude or if it appears that no department in the foreseeable future is going to have after them, then we would need to move by legislation. What legislation would serve as a substitute for litigation?

Mr. SHEPHERD. Would you like me to discuss this as a technical problem?

Senator HART. Yes.

Mr. SHEPHERD. I suppose deconcentration is bound to be part of any broad effort to abate market power in the economy. How far it needs to extend we would like to learn as we go along, and not start off knowing or pretending to know that 20 or 40 industries, or maybe only two or three are involved. I think most professional opinion of my colleagues is that it would be on the order of seven to 10 major industries, perhaps more, perhaps less, but that the legislation should be drafted so as to set up the machinery which would deal with it not only in terms of negative changes or restructuring, classical style, but

also in terms of incentives, so that companies are encouraged to come up with their own efficient plans to carry out changes which are consistent with the public interest. So that I would hope that your committee staff would be thinking imaginatively and in ambitious terms about legislation that might be brought in orchestrating a variety of possible techniques.

At the same time I would not want to cause any more of a moratorium than we already have had since 1952 on antitrust cases against established market power. Let's face it, we have not had section 2 of the Sherman Act actively applied for 20 years. We have had a switch-off on the whole question.

Now, the Justice Department could go ahead experimentally testing out the reaches of section 2 simultaneously with possible new laws. The one thing that should not happen is to let one thing stand in the way of the other. We can learn both ways. If the courts won't see their way to taking action to reduce the core of market power, then we will have to appeal to the wider ground of legislative choice. But, to let either one forestall the other would be a serious mistake.

I hope that is responsive.

Senator HART. Yes; I believe that you are. And I certainly welcome your counseling the committee staff in terms of legislation, which as you know, I have said I want to get in. But the more I listen to the proposal, the more difficult I realize is the job of trying to legislate to deal with the concentration.

Miss VAN HORN. To what extent can Congress be instrumental in pressuring the Justice Department in taking action with respect to the laws we have now? I think both Dr. Shepherd and I have said essentially the same things, if we enforce the laws we have created, that would do it.

Senator HART. I have asked myself that, of course, and have come out with answers that you probably wouldn't agree with. It has been a long time since I have pretended to be a lawyer. And I know that sitting here it is easy to get up and make a speech and raise Cain about the failure of the Department of Justice to file suit against A, B, or C. But I did practice a little antitrust law. But I know the complexity, and for how long you disappear when you undertake one of those giant bites down there.

You said there were 300 lawyers involved in the IBM effort. Congress had given the Department of Justice Antitrust Division about 300 lawyers to do the whole business across the country. So I think before we start to make speeches, we ought to give them more muscle. And if we make speeches and don't get them the money, we are phonies.

I am talking about Congress, me.

Miss VAN HORN. Sometimes it is a question, as Dr. Shepherd said, of being creative and skillful about how you file a case. You can file a case that is going to take 10 years, as you can file a case where you can get injunctive action in a relatively short time.

But it is just a temporary solution to a serious problem, and there are probably a whole spectrum of creative approaches.

And I think perhaps this is what Dr. Shepherd is trying to say. If every suit will take 10 years, by the time you solve a problem, it has gone away, as in the case of the soap companies, everybody had switched to detergents by the time Justice finished the case. And the

computer industry is an example of one that is very, very seriously sick. And the fact that the suit will go on for 10 years or another 5 is not good. But the alternative is a trivial consent decree, which will, of course, be heralded as a great breakthrough for antitrust enforcement, but which is also very bad. I am very concerned lest there be a meaningless consent decree with IBM because the Justice Department can't afford to continue to litigate.

Mr. BARMASH. I think it was Mr. McLaren in another committee hearing who said that he felt that all the laws that were necessary were on the books, that he didn't feel that any more laws were required, although that is not a universal opinion by any means. And my own feeling—

Mr. CHUMERIS. I might add, he answered that in response to Senator Hart's question, Senator Hart asked him the question.

Senator HART. Yes, that was the answer.

Mr. CHUMERIS. That was his answer.

Mr. BARMASH. My feeling is, too, that it becomes a question really of perhaps—politics is not the right word, but diplomacy, if that is a proper term in Government circles. You would know more about that than I would.

But in the case of the Justice Department—and I hold no brief for him or the Department, but merely as an observer—I think that there are or were so many successive clouts coming out almost weekly, or every other week, against Ling-Temco, against ITT, the effective blocking of the Northwest acquisition of Goodrich, and a number of others, that somewhere along the line there must have grown a feeling that perhaps too much would be too much. I am not saying that IBM is not the most devastating situation in front of us. It could very well be. But the fact remains that we shook up American business like nothing else had coming out of that Department in years. And that has to mean something.

Mr. SHEPHERD. Could I comment?

Senator HART. Yes, please.

Mr. SHEPHERD. The likely response to any major new legislative effort in this direction is illumined by my experience with "big actions" at the Antitrust Division. During the year I was there watching things right from the center, it was invariably true that those inside were always too apprehensive about what they were doing. They thought that if they sued IBM, or issued guidelines, or did anything else, the world outside would come crashing down on them for their temerity. In fact, they would bring themselves to do some mild thing, and the world would go on perfectly normal the next day, and lots of people in New York would say, ho-hum, I thought they were going to do something significant.

I think the same thing applies to possible plans to restructure a limited part of the U.S. economy. The issue is presently in the air, and it is natural to be a bit nervous about the response. Experts on one side or another might say that the draft legislation has some rough patches or perhaps errors; even, heaven forbid, that it is irresponsible; or, worst of all, not of publishable quality. Of course, someone will say that it is irresponsible. There are some very large vested interests at stake. And rational defendants will naturally engage or encourage people to say things of this sort. But again, the fundamental problem is to fortify one's nerve and to grasp the true long-run realities. If past

experience is any guide, what seems radical in 1972 will look quite conservative and inadequate in 1980.

And so your staff's draft proposals are probably just a useful start to discussion and perhaps legislative action. The worst thing would be to be overly self-inhibited by some exaggerated sense of fear or nervousness about the reaction to effective proposals. From the hearings that you have had over the years, it seems reasonably clear that there is a real constituency in the country that is waiting for this kind of action, and will benefit from it, and would be ready to support it.

Senator HART. We tend to be our own most lenient judges.

And I just make this additional observation, I think that the further I get into the business of trying to figure out what kind of legislation we should have—I hope it isn't a lack of nerve—there is some concern on my part that I don't have this second thing, the skill. It is one thing to look at a giant, and say, you are too big, and everybody is suffering. But we all agree that you don't put a bomb under it. That goes from bad to worse. And there are some consequences that follow. And you have to have not only nerve, but a conviction that you have identified on a reasonable basis more benefits as a result of the bomb than additional harm.

Mr. SHEPHERD. But merely calling it a bomb suggests the context of damage rather than clinical treatment.

Senator HART. A successful operation is good clinical medicine. An unsuccessful operation is butchery. Whatever you call it going in, the test is what do you get out when you wheel the patient out. That is all I am saying.

Mr. SHEPHERD. I have so much faith in the resiliency and imaginativeness of the private American businessman, that I am sure even the worst damage that Congress would permit would be absorbed and turned to good account. This may sound irresponsible to some people, but the record will bear me out. The worst parts of bad antitrust experiments have been stopped short of any real damage. And the mediocre experiments have not done lasting economic harm.

Miss VAN HORN. I think we should get away from the idea that divestiture is a bad thing.

Senator HART. Would you agree that it could be? If it could be applied, of course, it could.

Miss VAN HORN. I think that maybe we need to think about this in two stages. One is the question of whether or not a corporation should be broken up, and if so, into approximately how many parts. And then the question of precisely where the incision should be made to give approximately x number of parts of approximately equal size, plus or minus 20 percent. And when inquired of the Justice Department about the question of breaking up IBM, one of the answers was: Well, it is not clear that it can be done. IBM says it can't be done.

Senator HART. I don't know any imaginative lawsuit that could be filed against IBM that would produce a quick answer from any court in its right mind of that proposal. Even to get an injunction, which is apparently what you have in mind, requires under due process an enormous tonnage of documentation. It is not going to help.

Miss VAN HORN. Take, for instance, Senator Harris' bill—and I have no idea what you intend to propose, because your staff is very careful in not saying—but I think Senator Harris has made an effort to

be quite explicit in his proposal of defining whether the company is a monopoly or oligopoly, and giving them 1 year to decide how to divide themselves up, and about 4 years if the court has to make a decision, because obviously it would be easier for the existing management to do it than an outsider. I think that that kind of thing would perhaps work faster than trying to mount a whole collection of lawsuits against the corporations that obviously would be included in the law as defined. I think you are right there, they would move along a lot faster. And Senator Harris' bill certainly was quite unambiguous as to what level of concentration was applicable.

Senator HART. It is true that the legislation, at least once its constitutionality were established, can move fast compared to the litigation in antitrust, there is no question about it. But the definition of the standard—and in the case of the Harris bill, it is quite horizontal—doesn't get back to the distinction. And with market power really drastically changed, and with competitive conditions, these take almost as long to figure out as these lawsuits that I am groaning about taking too long.

Miss VAN HORN. I think that particular one would solve part of the problem, and it would at least break the ice on the question of de-concentration. My own feeling is that at least in the computer field, if IBM were split, and split into not just two or three parts but 10 or 20 parts, it would go a long way toward revitalizing the industry, and also attracting new capital into the industry. At the present time, the industry is very much in the doldrums, and new capital coming into the industry is almost nonexistent, because as long as IBM dominates the industry, and companies like General Electric and RCA cannot compete, then it is a serious impediment to companies clearly much smaller. And divestiture would have a beneficial effect on all of the parts of IBM. In other words, if the corporation were split, and the shareholders received stock from each one of the split corporations, I think we would have such a beneficial effect on the computer industry that all the parts would be worth more than the whole, as far as the shareholders were concerned. And as far as the employees were concerned, there would be more opportunity, because anything that would revitalize the computer industry would create more opportunities and more employment and so forth. So I don't really see that there would be very much lost.

I don't think it is a bad thing, but it is more a bad thing in terms of the traditional attitude of the management. Maybe we should have a new rewards system for management in the sense that a manager is really successful when he gets a corporation to a size where it has automatically split up, and that that is the new criteria of success, rather than going on and on and trying to get all the numbers on the balance sheet bigger than last year. I think it is an emotional block. They are not doing it for the benefit of the shareholders. It is just a habit factor.

Senator HART. Some place, in some fashion, you have to recognize that it is not just folklore, that there is such a thing as economics of scale in our industrial society. Can you tell me how to define that under the statute to reach all industry?

Miss VAN HORN. There is also such a thing as too big.

Senator HART. But where is it, and how do you define it?

MR. BARMASH. Miss Van Horn, your suggestion is a very interesting one, about creating a set of criteria for top management evaluation to build a company up to a point where it has got to be split up. The only problem is, you would almost have to change human nature if you did that.

MR. SHEPHERD. One imaginative possibility, for instance, would be through taxes, if you could provide an incentive to the company and to the shareholders from a clean, brisk separation. Suppose that if divestiture were successfully accomplished within a deadline set on a reasonable basis, losses would be tax deductible and gains would not be taxable, within perhaps the year following the split. Then shareholders would have a very strong interest in seeing to it that their management carried out a successful and efficient separation. In this case, you would legislate not only to put certain firms under some kind of a requirement, but also to put some kind of reward system before it that works internally and which mobilizes the immense power of shareholder interest. There are many tactics like this which would be developed and tried. Obviously, you don't want to take a knife to the baby if it is a baby. But self-interest can be unlocked so as to carry the changes forward.

MISS VAN HORN. I think that is true, because that kind of tax incentive for a year or so might cushion any practical dislocations that might occur.

SENATOR HART. But we still would welcome some specific help on this business of how you draft legislation that would affect American industry in terms of deconcentration and will protect against what will be a public hurt. And that would be a definition that would dilute and diminish the efficiency that comes from size.

MR. SHEPHERD. I agree. In trying to even the burden of proof about whether there are economies of scale or not, you don't want to go too far the other way and require the other side to prove that there are economies of scale conclusively. Neither side will ever be able to derive absolute proof. What is needed is some mechanism which will bring about an even consideration, and then apply the right incentives.

But I wouldn't have thought it was so much a matter of writing legislation which would state it properly. After all, you have Senators and Representatives and lawyers all over the place.

SENATOR HART. We didn't either. But the effort has gone on for many weeks.

MR. SHEPHERD. Yes. But I am not sure that this effort should be buckled up within one small group.

SENATOR HART. We would like to come out with a sound practical proposal.

MR. SHEPHERD. I agree. But lawyers always want to think about it just a little more, another month, and then another. They can always find one other clause to include. This is true in the Justice Department as everywhere else. And I think one needs to dig in against that tendency to try to write it perfectly, to chisel it in stone.

SENATOR HART. I am sure you would agree that that is not characteristic of lawyers alone. Economists, I have discovered, have the same concern that they look good when they come out with something.

MR. SHEPHERD. That is right. They are afraid to look awkward.

Mr. BARMASH. I had better not say anything because I might get involved in this, too.

Senator HART. Well, you are in a different category. You have to go to press, ready or not, every night at 6.

Mr. BARMASH. That is exactly right. Six.

Senator HART. Well, I appreciate very much your willingness to discuss so many things with us. And I know that we are the better for it. I realize that we have taken a whole day, and I apologize for that.

I should tell our youth counselor, George, that I have delivered to Senator Griffin the petition from his school that he delivered to me.

Mr. CHUMBRIS. Mr. Chairman, silence from this side doesn't indicate agreement with what is being said.

Senator HART. Not with everything. But you agree that it is difficult to draft that kind of legislation?

Mr. CHUMBRIS. You know we have been over that road with Walter Adams time and time again.

Senator HART. Thank you very much.

We will adjourn, to resume at 9:30 tomorrow morning. We will try to get an answer to the question, "Who runs this place?"

(Whereupon, at 3:55 p.m., the subcommittee adjourned, to reconvene at 9:30 a.m., Friday, January 21, 1972.)

CONTROLS AND COMPETITION

FRIDAY, JANUARY 21, 1972

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:40 a.m. in room 318, Old Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senator Hart.

Also present: Senator Fred R. Harris (Oklahoma); Charles E. Bangert, assistant counsel; David D. Martin, chief economist; Dr. Walter S. Measday, economist; Arthur Andersen, economist; Peter N. Chumbris, chief counsel for the minority; Kirley S. Coulter, economist for the minority; Patricia Bario, editorial director; and Janice Williams, clerk.

Senator HART. The committee will be in order.

As we have already indicated by the informality, our hope in this hearing is that there will be as little formality and rigidity as possible consistent with reasonably orderly development of the transcript. We have suggested that those of you who would be willing to participate come and make an opening statement. We will file in the record as though as given in full, the prepared statement, and if the opening statement can summarize that and be held to 10 minutes or so, we will have that as a means of stimulating a reaction. From then on I would hope that we would simply exchange comments one with the other and with staff and with members of the subcommittee.

One or more of you may have a schedule this morning that will require you to leave before we formally conclude. That certainly is understandable. Indeed, if you have commitments that you can meet and then return before we are finished, fine. We will operate very much as a lively conversation rather than a Senate hearing.

I am not sure that the discussion will reflect the title that staff gave to the session. The question that is asked of us this morning is: "Who runs this place?"

I doubt if we could even approach an answer to that within the period I would suggest we spend, or there may be opinion here that suggests that we know exactly who runs it, and it will only take 5 minutes to develop that.

And the subtotal of that question "Who runs this place?" is to suggest that there is some preconception, and the subtitle is the political power that giant corporations have and how they use it.

Let us proceed in the order of the listing of the participants in our announced schedule here.

I will welcome first, one of the Members of the Senate who perhaps more than anybody else has sought to blow the whistle—and, indeed, to answer the question to which the panel addresses itself—the senior Senator from Oklahoma, Fred Harris.

**STATEMENT OF HON. FRED R. HARRIS, A U.S. SENATOR FROM THE
STATE OF OKLAHOMA**

Senator HARRIS. Thank you very much, Mr. Chairman. I would reverse that. I think you and the subcommittee have done more than anyone else in the country to spotlight the problem of inordinate concentration of economic power and have put out, I think, the best and most accurate information concerning it, and these hearings are in the same vein. I appreciate very much what you are doing.

Unfortunately, when the Congress, last fall, extended the presidential authority to control the economy, we did not have the kind of discussions that you are carrying on now, and which is needed, on its long-term impact on our economy and our democratic system of government.

Despite the new circumstances created by the President's decision on August 15, the Congress, with virtually no serious discussions, overwhelmingly approved the President's phase II legislation. Many prominent observers at the time argued that the imposition of such sweeping controls in peacetime could, over the long run, radically alter the nature of our political and economic system, pushing us toward some permanent form of corporate socialism. Nonetheless, the Congress acted as though it was considering some routine piece of legislation.

Now, as it has for so many years, this subcommittee is again asking the important questions which the rest of the Congress has been all too willing to ignore. I believe that these hearings may play a vital role in the public debate over the future of the American economy which has developed since the announcement of the President's new economic policy.

Mr. Chairman, the President's new economic program raises the question "Where are we headed?" Now, we do not have to engage in guesswork or crystal-ball gazing to answer this question or to understand the politics of phase II or any other similar "phase" of Government controls that may follow it. All we need to do is to consider the politics of those segments of the economy that have been controlled by the Government for years: utilities, transportation, and all the others. As Washington Post reporter Robert J. Samuelson summed it up several weeks ago, "Cuddling up to Uncle Sam for warmth and protection is such a natural act for big business these days that it almost goes unnoticed."

Thus, while reporter Samuelson called wage and price controls "the Big Cuddle of 1971," it was hardly the only one; 1971 was a banner year for the proponents of corporate socialism. Remember the bailout of Lockheed, the Department of Transportation's cave-in on automobile airbags, and the big corporate tax cut in the Revenue Act of 1971.

No, we do not need to guess how the big corporations will adjust to permanent wage and price controls. They will dive into politics

with a gusto that by comparison will make the dozen or so candidates for the Democratic presidential nomination look like teenage boys at their first school dance.

The tools of political power that the corporate giants use are not limited to the primaries, conventions, and elections available to the presidential candidates. Campaign contributions, lobbying, corporate advertising, job interchange, and involvement in community institutions are all in the political arsenal of big business.

Take campaign financing, for example. Between July, when I decided to run for President, and November, when I announced I was having to close down because I was broke and \$40,000 in the hole, I spent \$200,000.

You might imagine that the doctrines of the new populism of breaking up shared monopolies and closing the tax loopholes, of shaping up the regulatory agencies and ending the giveaway programs for the corporations went down a little better in union halls, college auditoriums, old folks' homes and minority rallies than they did at fundraising luncheons at "21."

Often my hosts at these fundraising sessions were disappointed at the response of potential contributors to new populist issues. "You lost so and so when you mentioned you were against the investment credit," they would say.

One of my principal backers became increasingly alienated by my talk about breaking up the shared monopolies. "Couldn't he just stick to the dope traffic and safe subjects like that?" he asked my campaign manager.

Such a system of campaign finance—a system dependent on a relatively small number of the very rich—obviously distorts our political system in favor of the rich and the big corporations they control. Permanent wage and price controls can only make this situation worse. If every company's profit statement depends more on the decisions of a Government agency than on its efficient performance in a competitive market, will it hesitate to try to influence those decisions through campaign contributions and otherwise? If Government decisions, not collective bargaining affect a union's future, will it act any differently? Won't an administration concerned about raising money for the next election be tempted to show less consideration for an industry or union which has not given its share? These are vital questions that go to the heart of our democratic form of Government.

The same can be said of the massive lobbying campaigns corporate interests wage with tax deductible funds. For example, during the past year the Coca-Cola Co. and the other big soft drink companies have conducted a lobbying campaign on an unprecedented scale aimed at allowing them to evade the antitrust laws.

On July 15 of last year the Federal Trade Commission issued complaints against Coca-Cola and the six other biggest soft drink companies for violation of the Federal Trade Commission Act. The FTC charged that Coke and the other companies require their franchised bottlers to monopolize the local markets for each brand of soft drink. Since Coca-Cola's contracts with local bottlers restrict the bottlers to limited geographic areas, a grocery or supermarket has only one monopolistic source of supply for bottled Coca-Cola. As a result of this geographic limitation on competition and the big companies' ex-

cessive spending on advertising, the soft drink industry is a shared monopoly in which the top four companies have 70 percent of the market. Coca-Cola alone has about one-third of the market. Actually, Forbes magazine says they probably have 41 percent, but according to older FTC figures, they have about a third of the market. In any event, they have had uninterrupted growth in profits for the last 15 years. The FTC says that when all these practices and structures are added up, the consumer pays about 30 percent more than he should everytime he buys a bottle of Coke. That is a 3-cent overcharge on a 10-cent bottle and a \$1.5 billion redistribution of income from ordinary Americans to the big soft drink companies.

The Federal Trade Commission has taken Coke and the other companies to court to stop this kind of bilking of the public. Coca-Cola was not to be so easily challenged, though. Even before the FTC complaints were actually issued, the company launched an intense lobbying campaign aimed at the Congress. Simply because of its immense size—and size is expressed here not only in bigness but also in geographic distribution. Coca-Cola is able to lobby every Senator and Congressman from his home district. Economic power translates into political power much better if there is a wide geographic area involved, and that is one of the problems about conglomerates: the fact that Lockheed or North American or whoever is located in so many districts. Some have suggested that the influence of Coke is more extensive than that of the American Armed Forces. In any case, the company blankets the United States with about 900 local bottlers, more than enough to cover every congressional district.

Last spring Coca Cola and the other companies mobilized this massive potential political power by directing their bottlers all over the country to bombard congressmen and senators with protests against the FTC's complaint. I would like to submit for the record a memorandum dated May 18, 1971 from John S. Knox, Jr., executive director of the Coca Cola Bottler's Association, to local bottlers throughout the country. Attached to it is a sample of letters for the bottlers to use in contacting their congressmen. These samples include such definitive statements as:

My company is the Coca Cola Bottling Company of— (blank space). It is now owned by me and my family, and prior to that was owned by my father, and prior to that was owned by his father. We are the main business in the town of— (blank space). We have a total of (blank) employees, including (blank) driver-salesmen.

With the blanks filled in, that kind of a letter is one thing if it comes from a real small businessman in your home State, but when it is a part of a carefully orchestrated lobbying campaign by a billion-dollar corporation which reaches into every part of America and most of the world, it is something else entirely. It is a blatant example of the excessive power of big corporations.

This massive lobbying campaign has had its effect. According to staff members at the Federal Trade Commission, the efforts of Coke and the other companies to stir up Congress have made an impact. The FTC has received inquiries from over half of the offices on Capitol Hill. Some have contacted the FTC four or five times with complaints from hometown bottlers. Alan Ward, the head of the Commission's Bureau of Competition was quoted last summer as saying: "We've had more letters than I've ever seen." Another FTC staff member reports

that over the Christmas adjournment, Congressmen were calling in from their districts to check up on the status of FTC's complaint before they had to face their local bottlers.

Not content with merely protesting the FTC's effort to enforce the antitrust laws, Coca Cola and the other companies are also trying to get the antitrust law repealed—just for them. During the last several months, the National Soft Drink Association has circulated on Capitol Hill a draft of a bill to repeal part of the Federal Trade Commission Act for any "trademarked food product." I would like to submit for the record a copy of this draft bill, which includes the appropriate blank spaces to fill in the date the bill is introduced and the name of the legislator proposing it. I might add that at the top of the first page it is kindly pointed out that "House and Senate versions would be identical."

Senator HART. Let me add that both that draft bill and the letters which you referred to will be made a part of the record.

(The data referred to follows. Testimony resumes on p. 252.)

NOTE.—House and Senate versions would be identical.

[H.R. —, 92d Cong. 1st Sess.]

A BILL To amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 41) is amended by insertion of a new Subsection 3 as follows:

"(3) Nothing contained in this Act, or in any of the Antitrust Acts, shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution and sale of a trademarked food product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution and sale of such product only for ultimate resale to consumers within a defined geographic area; provided that this Subsection shall apply only if: (1) such product is in free and open competition with products of the same general class manufactured, distributed and sold by others, (2) the licensee is in free and open competition with vendors of other products of the same general class, and (3) the licensor retains control over the nature and quality of such product in accordance with the provisions of the Trademark Act of 1946, as amended (15 U.S.C. 1051).

SEC. 2. Subsections "3", "4", "5" and "6" of Section 5(a) are redesignated "4", "5", "6" and "7" respectively.

SEC. 3. Subsection 5 (as redesignated) of Section 5(a) is amended by deleting "(3)" and inserting "(4)" in lieu thereof.

THE COCA-COLA BOTTLERS' ASSOCIATION,

Atlanta, Ga., May 18, 1971.

To: The members of the Coca-Cola Bottlers' Association.

Enclosed are some sample letters which you might use as guides to formulate your own letter directed to your Federal Congressional delegation. Even though you might have written them before, you might want to write them again to emphasize your feelings about this most serious matter.

The most effective type of contact with your elected representatives is, of course, in person. The second best is written communication, but it is most important that your letter be in your own words which best express your own feelings. It is, therefore, important that the enclosures be considered only guides to give you ideas for your own contact with your representatives in your own way.

Sincerely yours,

JOHN S. KNOX, Jr.

Enclosures.

DRAFT 1

DEAR: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I notice that the FTC letter makes no reference whatsoever to the fact that the territorial limitations in the franchise agreements were specifically the subject of a court proceeding and were held to be lawful under the anti-trust laws (269 Fed. 796). This agreement has been in effect for over 50 years and has been a matter of public record known to the enforcement agencies and to Congress. Congress never took any action to overturn this decision. And notwithstanding what the staff of the Federal Trade Commission implies, neither the Supreme Court or any other court has ever been faced with this situation to overrule it.

The Court in that case said that bottling companies such as mine have "perpetual" rights, amounting to "property rights" in the territorial franchises. The Federal Trade Commission now seeks to strip me and my fellow bottlers of such "property rights"—without our even being parties to the proceeding and without compensation to us for loss of these rights.

Do you think that is fair? My father and his father before him and now I have made substantial investments in this business for over fifty years and now we stand to see the value of it wiped out by the action of some administrators, not even by the Congress.

Don't you think that is the taking of property without due process? Most bottlers such as myself are relatively small businesses. We are probably the ones who can afford such losses least.

It is no answer that the Commission will go through a lengthy hearing and that if it is wrong either it or an appellate court will reverse it. What am I to do in the meantime? Should I make further investments to promote recyclable packages? In advertising possible new product lines? Could I ever sell the business if I wanted to for what I've put into it?

Personally I think the Federal Trade Commission announcement is outrageous harassing and unfair. It is a detriment to small businesses and the only ones it will help are the big chain stores.

Please help me and other bottlers and small businesses such as myself.

Sincerely yours,

DRAFT 2

DEAR: Many thanks for forwarding the letter from the FTC staff concerning the proposed complaint against the soft drink companies challenging the territorial provisions of their franchise agreements.

I notice that the staff claims—or perhaps more accurately I should say that they implied—that the proposed proceedings will help small business by enabling them to expand into adjacent territories.

This is obvious hogwash. Let me just set forth a few facts. My Company is the Coca-Cola Bottling Company of . It is now owned by me and my family, and prior to that was owned by my father, and prior to that it was owned by his father. We are the main business in the town of . We have a total of employees, including driver-salesmen. More than 50% of our business is in returnable bottles, which calls for the driver-salesmen not only to deliver the product but also to pick up the empties on their routes.

In order to keep the price low to consumers a nominal deposit is charged on the bottle, which deposit does not cover the cost of the bottle itself. Our Company has a substantial investment in these returnable bottles, in an amount which exceeds our annual profits.

The adjacent Coca-Cola Bottling Company is , one of the three publicly held Coca-Cola bottlers in the country. All others are closely-held family operations such as my own. The Coca-Cola Bottling Company of has assets of \$, annual sales of \$, and approximately employees.

Can you really believe that the FTC proceedings, if successful, will enable me to take away the territory and business of this neighboring company and its territory? Don't you think it far more likely that they will come into my territory and wipe me out, together with this business which is so important to the community. How can the FTC say what it says with a straight face?

Let me just go one step further. Suppose this large company comes into my territory and delivers here. Don't you think it would be worth their while to

pick up my empty returnable bottles since it would cost them less to pay the deposit on them than to buy new bottles? As noted above if they do that for one year my entire profit for more than that year is eliminated. How long do you think I can stand that?

And for all this, who is to gain by it? Only these larger bottlers and only the chain stores. There will still be only one Coca-Cola bottler in the territory but that bottler will be a large one instead of a small one. Is that what you and Congress have intended?

I think the FTC announcement of its proposed proceeding is an outrage. In its letter to you it flatly ignores the fact that more than 50 years ago in a publicly recorded decision, well-known to the Congress and to the enforcement agencies, the territorial provisions of our bottler franchise agreements were upheld by the district court as not being in violation of the antitrust laws. Never has this decision been overruled by the courts or by Congress and the FTC cannot claim that it has been. Now by action of a few administrators it attempts to take away what the court said was a "perpetual" right in the territorial franchise that amounts to a "property right." I thought only Congress could do that and only if Congress compensated us for the taking away of that property right. Certainly that would be the fair way.

It does not need elaborate proof to establish that the soft drink industry is one of the most competitive industries in the country. The Department of Commerce has even said so. What more can the Federal Trade Commission ask for?

I submit that if the Congress and you are interested in helping the small businessman, such as myself, you will take steps to see that the Commission will not only *not* seek to upset this long-standing lawful agreement, but, in addition, that it disavow its intention to do anything about it in this industry. Because while this threat to change a 50-year rule hangs over my head, I hesitate to make any additional investment in the business. As a practical matter I can't even sell the business at any reasonable figure because everyone knows that if the FTC is successful they can just walk in and take it away from me.

Please do something. I don't know what, but only you and Congress can help me and small businesses like me from the arbitrary action of agencies such as the FTC.

Very truly yours,

DRAFT 3

DEAR: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I would like to tell you a little bit about the soft drink industry whose structure the Commission is now admittedly trying to change. First of all, this industry has been based upon getting product available to as many consumers in as many places as possible. This is obvious to everyone who has ever seen Coke in gas stations, train stations, airports, restaurants, lunch counters, bars, delicatessens, Mom and Pop grocery stores, drug stores, supermarkets and many other public places.

This is to the interest of the consumer. It did not happen by accident. It happened because the bottler in a particular territory had the incentive to go and develop that business. It is costly to do that. It is expensive to distribute to individual Mom and Pop stores. But the bottlers are able to deliver to those Mom and Pop stores and enable them to make a profit on the resale of the product because the bottlers have the entire territory and can cover all stores on one trip efficiently.

The result has been that the cost of Coca-Cola to the consumer in a 16 oz. bottle is the same as it was 40 years ago. How many other products can make such a statement?

Now let's suppose the FTC has its way and another bottler can come into my territory. First of all the trip is going to be longer because it's farther away from the plant. This means there will be less time for actual delivery and servicing of stops, such as checking the stock, rotating or putting fresh packages out front, picking up the empties, etc.

So if someone else comes into my territory, he won't be able to serve the same number of accounts and somebody is going to have to be eliminated. Who will that be? Obviously, it's going to be the small-volume low-profit accounts, such as the corner grocery, the drug stores, etc. The high-volume accounts, such as chain stores and supermarkets, will continue to be served.

So, now, we've got two bottles in the territory one of which serves the high-volume high-profit accounts, such as the chain stores and supermarkets, and the other of which serves unprofitable small accounts. It's perfectly plain what's going to happen. The bottler selling the small accounts is going to go out of business. He can't afford it.

The further consequence is that the small stores like the corner grocery (to the extent that there are any left), the drug stores, etc., are not going to be served. Why should they be served by a bottler from another territory? They are not going to be adding to his profit.

(To be fair, Mom and Pop stores frequently can be served if the FTC is successful. It doesn't mean that they will never be able to get Coca-Cola. It only means that there is going to be another link in the chain of distribution—namely, a wholesaler who is going to add on his profits and increase the price to the small retailer and ultimately to the consumer. Why does the Commission do things that cost the consumer more money?)

So the ultimate result of the FTC announced proceeding, if it is effective in achieving what it wants to do, is not only to drive out small bottlers such as myself but, also, to eliminate or reduce service to the small retail stores in favor of the chain stores. Anyone in business can tell you this. It does not take an expert. And if the FTC thinks otherwise it is closing its eyes to the obvious. In fact, I'm absolutely certain that they know what its called—namely "skimming the cream off the top of the market."

Now, who is the Federal Trade Commission or the Congress of the United States for? Are they in favor of promoting small businesses such as myself, or do they want to eliminate us and favor chain stores? They couldn't find an industry more competitive than this—and anyone with his eyes open can see on a firsthand basis the intensive rivalry among brands.

Moreover, the United States District Court ruled in 1912 that our territorial franchise agreements with The Coca-Cola Company are lawful under the anti-trust laws. Congress has never said anything to the contrary. The Supreme Court has never said anything to the contrary and the FTC cannot claim that it has. Why does the FTC suddenly decide to try to overrule a decision of the courts that has been on the books for more than fifty years? And why the FTC rather than Congress? That is unfair and as a Congressman of the United States I think you ought to protect me and others like me from such unfairness of other governmental agencies.

Indeed, the mere announcement of the FTC's intention to institute the proceeding will have this dilatorious effect upon small companies such as myself. While it is pending should I make an investment in new bottling facilities? In new disposable packages to eliminate litter and waste? In re-cycling facilities? I certainly can't do such things unless I know I'll still be in business—and I won't know that with the FTC proceeding pending.

Please help.

Very truly yours,

DRAFT 4

DEAR: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

Let me tell you what's going to happen to small business if the FTC is successful. One of the principal sellers of soft drinks in the community serviced by this company is the chain store. In fact the single brand with the greatest volume in chain stores is the private label of the chain itself.

In short, the chains are my largest major competitors. Indeed, in this area the chain not only sells its own brand but also owns its own bottling plants.

Who is going to benefit from FTC proceeding? Well, the principal person is going to be the chain store, a competitor. Who is going to be hurt? Small bottlers such as myself.

The next result is that the Commission proceeding is going to help drive me out of business, all to the benefit of one of my major competitors, the large chain stores.

Is this what Congress wants? I can't believe that it is.

Please help.

Very truly yours,

DRAFT 5

DEAR: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I have been seething in slow anger ever since receipt of the Commission's staff's letter. It should be obvious to everyone in this Nation who reads the newspapers, magazines or listens to the radio or TV that the soft drink industry is one of the most competitive in the Nation.

As a result of this competition consumers today can buy Coca-Cola in a 16 oz. package at the same price per oz. that it cost them 50 years ago. Are there many other industries that can make the same statement?

The Commission staff speaks grandly of our fears being misplaced. But where is the support for their contention that they will be helping either me, or other small businesses like me or consumers? Where has the consumer had a better price break than this? Where are there industries that are more competitive?

If prices were unrealistically high, why has the number of bottlers in the country declined from 4,500 to 3,500 within the last few years alone?

If the territorial provisions have been unfair, why has the Commission waited 50 years before trying to upset a court ruling that they are lawful (269 Fed. 796)? This ruling has never been overturned. In fact, the Court decided that the territorial provisions are a "perpetual" "property right" of the bottlers.

Please help me and other small businesses like me which are going to be injured by this announced action of the Commission.

I know you may be concerned about interfering with an administrative process. But I submit to you that the shoe is on the other foot and that the Commission is usurping a legislative function. The decision of the courts more than 50 years ago has never been overruled or overturned by any decision of another court. It has been publicly known to the Congress and to enforcement agencies during that entire period. Yet Congress has never done anything to overrule this decision of the courts. To take away a property right of bottlers now without compensation is clearly an exercise of the legislative function—an improper exercise at that—and unfair.

The chips are now down. Whose side is Congress to be on—that of the small businessman such as myself or of large chain stores and other large companies.

Very truly yours,

DRAFT 6

DEAR: Thank you for sending me a copy of the letter you received from the FTC staff concerning the territorial system established by the major soft drink companies.

My first impression on reading this letter is that the staff has not investigated the business facts of the soft drink industry in depth and has not given much consideration to what may happen to this industry if the proposed complaints are successful.

First, the staff treats bottlers simply as distributors of products made by The Coca-Cola Company. This is not how our industry operates. We are the producers of the soft drinks, using syrups supplied by The Coca-Cola Company and operating as a licensee of its trademarks. Over the years we have invested hundreds of thousands of dollars in bottling plants and equipment and have made much of this investment in recent years in order to satisfy the changing demands of our customers and the developments of our many competitors. This investment I have made and the investments of thousands of other small bottlers like me will be wiped out without any compensation if the proposed FTC action is taken and sustained by the courts.

Our industry is intensively competitive now, and this has been particularly true in the last ten years since the chain supermarkets have gone into competition with me through their private labels sold at minimum cost in their outlets. This competition has kept the price of my products essentially the same per ounce of beverage as it was — years ago. This competition has also eliminated dozens of soft drink bottlers in this State alone over the last ten years.

While I can accept losing my business because of fair competition, I cannot accept being run out of business to satisfy the economic theories of Government bureaucrats. My family and I have invested our money and our lives in building

this business in reliance on a territorial franchise system that gave us a reasonable degree of protection for our investment. We have thought this was reasonable because these soft drink contracts have been reviewed by the courts and upheld as perfectly legal. Now the FTC wants to completely change the rules of the game. It does not make me feel any better to be told that some bottlers will have an opportunity to serve a bigger market. My territory is not strategically placed, does not have the chain store warehouses to compete for, and cannot justify the investment required to compete in a large regional market for the large volume chain store accounts.

Undoubtedly the chain stores will benefit from the FTC action as will a handful of large metropolitan bottlers, but I am extremely skeptical as to how much cost savings will be passed on to consumers. The price of this "improved" competition, however, will be the elimination of many small businesses such as mine and no competition by anyone for the low volume local accounts who depend on my route salesmen for delivery.

I hope you can do something to prevent this injustice.

Sincerely yours,

Senator HARRIS. The local bottlers got into this act, too. In a letter to one of our colleagues, one bottler wrote:

In the event that the FTC should rule against our industry, our only hope is that the Congress will enact protective legislation to preserve the franchise system. . . . We are sending a copy of this letter to Mr. Tom Baker, executive vice president of the National Soft Drink Association. We feel sure that Mr. Baker will call on you in the near future to better explain our position. In the meantime we will appreciate your support in this matter.

Following the soft drink companies' intensive lobbying, their bill was finally introduced by a single Congressman on December 13, 1971. When the Congress reconvened last Tuesday, 12 other Congressmen introduced the same bill. So far Coca-Cola and the other big soft drink companies have not found someone to sponsor their bill in the Senate. That doesn't mean they haven't been trying. In their search for a Senate sponsor for their bill, the industry has enlisted the aid of Earl Kintner, a former chairman of the Federal Trade Commission under President Eisenhower and now a member of a Washington law firm. Mr. Kintner has joined Tom Baker of the National Soft Drink Association in presenting Senators with the draft of the industry's bill.

We are used to seeing generals go to work in the defense industry and directors of agribusiness corporations getting top jobs in the Department of Agriculture and people leaving, as the most recent Secretary of Agriculture did, to join big agribusiness corporations like Ralston-Purina. So, we should not be very surprised to see former members of the Federal Trade Commission lobbying for industries the Commission has attacked as monopolistic. We should not be surprised but we should still be outraged. How can regulatory agencies protect the consumer and the public when the regulators slide back and forth from the Government to industry? When an official retires from the Federal Trade Commission or the Forest Service, the Interior Department or the Food and Drug Administration, he knows that the lucrative jobs are with big corporations and trade associations and not with consumer groups.

I do not know of any other satisfactory answer to this problem of job interchange, except to limit Government intervention in the economy. Obviously, the more the Government regulates the economy, the more regulators are needed, and the more ex-regulators there are to

work for regulated industries. In that connection, I think we could serve several good purposes—encouraging competition, lowering price for the consumer, and doing away with some regulation in big Government—by doing away with the Interstate Commerce Commission altogether and allowing the various modes of competition to fully compete. Clearly, permanent wage and price controls can only make this problem worse. We ought to be thinking right now about where the members of the Wage Board and Price Commission are going to find jobs when they leave their posts.

The only way out, in my view, is to move forward to a competitive economic system—and I said “forward”—move forward to a competitive economic system, because I do not believe we have ever really had one, one that relies more on consumer demand than on Presidential edict.

To do that demands a broadscale attack on concentrated economic power. It means decentralizing the shared monopolies that control a third of manufacturing in this country. Supporting rather than opposing the Federal Trade Commission's efforts to curb the monopoly power of big franchisers like Coca-Cola and vertically integrated giants like Standard Oil. It means reforming our campaign spending laws and taking away the corporate tax deductions for lobbying and advertising on public issues. Overall it means a phase III that encourages competition rather than stifling it.

When I began I said that 1971 was a banner year for the proponents of corporate socialism. It was also, I think, the beginning of the first major political attack on corporate power in a generation. The public opinion polls report the public skepticism of big business is higher than at any time since the 1930's. The militant response of the labor movement to the probusiness bias of President Nixon's new economic program raises the specter of class conflict of an earlier time. The Congress beat the SST, refused to consider bailing out the Penn Central, and came within one vote of defeating the Lockheed loan. In last November's election, while the Nation's press focused on the racial overtones of the races in Philadelphia and Mississippi, the real story, or at least another important story, was in Florida where Gov. Reuben Askew beat the corporate tax avoiders in a successful referendum to enact a corporate income tax in that State. And in Virginia where Henry Howell was elected Lieutenant Governor, beating the utilities, insurance companies, and all the other “big boys.”

I am convinced that the American people are ready for fundamental change. They are ready for political response to corporate socialism. It is simply up to those of us in politics to provide the leadership.

Senator HART. Thank you, Senator.

If I read this listing correctly, next is a distinguished American who was a member of the staff of the Council of Economic Advisers during the Johnson administration and a member of the Council during the Nixon administration, Dr. Henry S. Houthakker, who is currently a professor at Harvard.

**STATEMENT OF HENDRIK S. HOUTHAKKER, PROFESSOR OF
ECONOMICS, HARVARD UNIVERSITY**

Mr. HOUTHAKKER. Thank you, Mr. Chairman.

The subject of these hearings, "Competition versus Control" is timely indeed, and I appreciate the privilege of participating in them. The events of the last few years, culminating in the program announced by the President on August 15, 1971, have lead to widespread doubts about the future viability of our competitive economic system. It is still much too early to say whether the present controls will last long, but the possibility can certainly not be ruled out. It also should be recognized that even after August 15 competition has by no means disappeared, as recent price developments in the steel industry have shown. There are many other important areas of the economy where the controls have not as yet had much influence. In fact the Price Commission is to be commended for allowing competition to prevail wherever that is possible under its mandate, and for having devised formulas that preserve some flexibility in the pricing decisions of individual firms.

But these mildly encouraging observations should not blind us to the fact that when a Republican administration adopts Galbraithian policies the supporters of private competitive enterprise are definitely on the defensive.

How did we get into this predicament? No doubt the events are still too recent to enable us to give the complete picture, but one important reason appears to be the increasing effectiveness of various vested interests in preventing actions that might undermine their position. Our political system has developed an infinite solicitude for well-organized pressure groups—even small ones—provided they hire the right Washington lawyers and make the right campaign contributions. By the same token the general public interest, especially the interest of consumers, is being given less and less weight. It is true that the consumer movement has increased considerably in strength and visibility, but its efforts have largely been directed at relatively secondary issues. The consumer movement has rarely if ever taken a clear stand in favor of competition; on the contrary, many of its positions have implied increased regulation and Government intervention. By and large, the American consumer's only weapon is refusal to buy, and under imperfect competition that weapon is too blunt.

The antitrust laws continue to protect us from some of the worst abuses, but they do not apply to such important sectors as organized labor, the regulated industries, and agriculture. Anticompetitive influences permeating from these exempt sectors have weakened competition in other sectors as well; thus the power of the labor unions to extract large wage increases in the face of considerable unemployment was probably the single most important reason for the adoption of general controls. While the antitrust laws are not perfect, they provide much better safeguards for the public interest than the special statutes applying to the three sectors just mentioned.

The laws concerning labor unions, for instance, primarily reflect the sad experiences of the 1930's so that they are in need of drastic revision. The Davis-Bacon Act has turned out to be an important factor in the rapid rise of construction wages; so have the hiring hall, the

apprenticeship system and the product boycott. There is no place for these devices in a competitive economy. In general, it is not obvious why the unions should continue to enjoy exemption from the antitrust laws, considering that some of them have far more market power than the large majority of firms and that they represent only a fraction of the total labor force. The gains obtained by unions for their members are paid in large part by unorganized workers rather than by employers.

The regulated industries, with some exceptions, also provide evidence of the benefits of competition. The Interstate Commerce Commission and the Civil Aeronautics Board are especially open to the criticism that they have given more weight to the short-term interests of their charges than to the long-term interests of the country as a whole. This is the result partly of underlying legislation, partly of inadequate staffing—perhaps other profitable sinecures can be found for defeated Congressmen and their aides—and partly of the public apathy that makes progress hard in most of the areas I am discussing today. The administration has taken an important initiative by introducing the regulatory modernization bill, which should reverse the trend toward ever greater reliance of the surface transportation industries on regulatory protection against competition. The recent Supreme Court decision in the case of the California truckers should also make it more difficult to use the regulatory commissions for preservation of market power. But very much remains to be done even if the regulatory modernization bill becomes law.

In agriculture the Capper-Volstead Act, which exempts organizations of agricultural producers from the antitrust laws, also needs a new and searching look. Originally intended to protect farmers against abuse of market power by processors and middlemen, the act has been increasingly used for exploitation of consumers through cartel-like arrangements, which are especially frequent in dairying and in fruit-growing. The Government has often reinforced this trend by imposing marketing orders without due regard to their effect on consumers. The "farmer bargaining" bills now before Congress would go even further in allowing cooperatives a considerable degree of monopolistic control.

These are three areas where application of the antitrust laws could almost certainly be beneficial. In addition the laws themselves need some strengthening. Thus certain anticompetitive practices—including the *Coca-Cola* case that Senator Harris referred to, as well as exclusive dealerships and the two-price system in the copper industry—could be more effectively opposed if, at least for large firms, refusal to sell were made illegal except in well-defined circumstances. The threat to withhold supplies is one of the strongest instruments for keeping customers under control. Efforts should also be made to speed up the disposition of antitrust cases in the courts.

I believe that the ideas just presented—and I would add a number of others to them if time permits—would impart new vigor to our competitive system and reverse the present trend toward a corporatist state in which each industry would be "master in its own house." Such a system, which prevailed in the Middle Ages and more recently in Fascist Italy and Nazi Germany, would seem to be completely inconsistent not only with economic efficiency but also with democracy as we know it here. Yet as one who knows from personal experience how

hard the defense of competition usually is, I cannot honestly be sanguine about the prospects for the near term. The supporters of competition should not hesitate to work for greater freedom, but neither should they ignore the anticompetitive schemes that are forever being pushed. What they can do most effectively in the latter sphere is to insist on adequate consumer representation. To take an example: If agricultural marketing orders were to be administered by a body that includes consumer representatives, then the enthusiasm for such orders on the part of producers would probably evaporate rapidly. If those with the general interest at heart let their case go by default they have only themselves to blame.

Thank you very much.

Senator HART. Thank you, Doctor.

Next on the list—and the subcommittee has had the benefit of his counsel at other occasions—is Mr. Charles Ross. Mr. Ross is now professor at the University of Vermont, but we came to know him first when he came to the Federal Power Commission as a commissioner, and he came to that assignment with a background of service as a utility commissioner of the State of Vermont. He is not one of those who became lost in the bureaucracy. We did hear from him even before he became a private citizen.

Mr. Ross, we welcome you here.

STATEMENT OF CHARLES R. ROSS, PROFESSOR, UNIVERSITY OF VERMONT

Mr. Ross. Thank you, Senator Hart.

I wonder what a regulatory commission would be like if the six of us were serving on it. I think there might be a few trembles throughout Washington in some of the "huge" executive suites if this were the case.

Senator HART. I wonder of the likelihood. How many of the six of you do you think would be subject to the FBI investigation preliminary to appointment?

Mr. Ross. Well, I know they have got a real file on me, but, in any event, I might add that I appreciate the introduction and your reference to my position as a professor at the University of Vermont because there is also a story to that. But I will not go into that.

I do want to thank you, Senator Hart, for this opportunity to press home the danger to our society of the ever-increasing power—clout some people call it—that some of our larger corporations are gathering in their hands.

In my prepared statement I refer to a speech that I gave in 1967 about increasing concentration in the energy field about which I was particularly disturbed and about which I am still disturbed. I mention it especially because I want the record to show that I am not a Johnny-come-lately in this aspect, in the energy field.

I hope that my voice along with the voices of other interested persons such as some of the very members of this panel are beginning to be heard. It is not too late now, but it will soon be if Congress does not act.

As any veteran of regulation knows only too well, economic power and political power are indivisible. The latter is an indispensable product of the former. The larger the corporation, the greater the

political leverage. The greater the diversity in interests of the corporation, the larger the number of prospective appointments to regulatory commissions that must be influenced.

I cannot believe that I would have been reappointed to the Federal Power Commission finally in 1965, after sweating it out for a year or so, if Vermont had been the scene of extensive oil and gas operations, or if Vermont were controlled by a large regional utility system. Fortunately for me, Senator Aiken and Senator Prouty were perfectly free men and thus senatorial approval was forthcoming.

I might digress for a moment and tell you a little story. When my appointment came up—it was due to come up in June of 1964—we recall, almost too vividly, that President Kennedy was assassinated in November, on a Friday, and on Monday morning, before President Kennedy was buried, a local trade publication, an oil and gas publication, said President Johnson's first act in the energy field was to see that Commissioner Ross would not be appointed. This was in November of 1963, and it was not until March of 1965 that President Johnson announced that I would be reappointed.

The appointment is only the beginning. It is ironic, however, that if a State regulator has stepped on a few toes in trying to regulate and is being considered for appointment to a Federal agency, he is more than likely to be blackballed.

In any case, when I appeared before the Senate Commerce Committee for appointment, one question was asked: "What do you know about the oil and gas business?" And I said: "I do not know anything." And I have heard since that that was probably the thing that allowed me to slide through without too much controversy.

Once on the scene, the regulator is confronted by sweet-talking executives, tough, hard-hitting lawyers and experts, even including experts in bugging. Those of you who know of the El Paso know what I am referring to. The doors of exclusive clubs are opened to the innocent regulators. The lure of life in the lap of luxury with minions to anticipate every desire—and until recently without any thought as to costs—becomes not just a dream but an actuality if one does not get too smart. On the other hand, if one does get too smart, it is back to the farm for our country bumpkin. The flattery, the press releases, the respect afforded an official regardless of performance, the cocktail parties, the utility and regulatory conventions at which comradeship between regulator and regulated is the No. 1 business, all combine to work imperceptively and irresistibly toward prolonging "Life on the Potomac" both during and after the period of regulatory appointment. The average intelligent regulator knows only too well how easy life may be, even if he goes home, if he has played ball. The prospect of important legal clients, the thoughts of large political donations and the realization that you can be the establishment's No. 1 boy back home or a part of the big scene here in Washington insure the "right decision" or, if not, at the very least the industry lawyer starts off with the dice loaded in his favor.

Regulation is not an impossible job, but almost. It will be impossible if larger and larger combination utilities and other corporations are encouraged. Remember, competition among utilities is not the order of the day. In fact, monopoly is the accepted way of life. And before the morning is over, I would like to comment about Pro-

fessor Houthakker's statement on "Competition versus Controls" and regulated industry, because I think it deserves emphasizing. So, do not make the job harder. Give the regulator the benefit of yardstick competition. Give him plenty of examples of good operations, good and farsighted utility managers. Reduce the opportunities in which one management can control or influence a large number of politicians and regulators.

Despite all that is said and done, regulated industries are essentially cost-plus operations. The regulator, however, is met head on by the scream that any attempts to question the reasonableness of any of the costs incurred is an invasion of management's prerogative. Bearing this in mind, it becomes more important than ever for the Justice Department and administrative agencies to encourage and promote vigorous competition among the suppliers of goods and materials to the regulated industries. Parenthetically, it is my fervent hope that the administration will see its way clear to fill the vacancy created by the resignation of Richard W. McLaren with a man committed to principles of strong enforcement of antitrust laws. And I hope that we will get to emphasize that this morning.

It also would be helpful to regulators if steps could be taken to insure that the managements of these large giant corporations are accountable not only to their stockholders but also to citizens directly. The time has come when the boardroom doors should be opened. In this connection, I would like to emphasize an idea that Ralph Nader has been advancing in recent months. And I notice that one of my compatriots on this panel, independently of my paper, and I, independently of his paper, have come to more or less similar conclusions. As Ralph Nader pointed out, the chartering of corporations can no longer be a perfunctory exercise. Standards and criteria for management should be spelled out in the articles of association so that the prerogatives of management which the managers of utilities and other corporations insist upon reserving to themselves are performed under conditions which allow citizens to measure their effectiveness.

Sovereign States should condition their licenses so as to allow for periodic reviews of the corporation's performance under this charter. This would enable the State to insert new conditions if necessary.

A fully paid director responsible to the public in each major corporation which provides an essential product would be helpful. Such a director could be subject to recall by the filing of a petition by a designated number of citizens. He would be helpful even in a regulated industry since the private deals might be better exposed and the officers would not have the assurance that only their "own boys" were on the board. Furthermore, a public director could serve to remind the others of their basic responsibility to keep the officers in line by serving the stockholders rather than further their own careers, whether by increasing their financial fortunes or egos. Hopefully, we would see no repetition of the Penn-Central situation.

The increasing concentration of economic and political power is taking its toll. Regulation is more and more difficult. Citizens are more and more dependent upon the policy decisions of government and industry leaders. Let us open up the system. Give necessary regulations a chance. Above all, give the public an economic system in which citizens' decisions can make a difference, a system in which the institutions are accountable not only to the regulator but also to the individual.

Thank you very much, Senator.

Senator HART. Thank you, Mr. Ross.

(The text of the prepared statement submitted by Mr. Ross reads in full as follows. Testimony resumes on p. 261.)

STATEMENT OF CHARLES R. ROSS, FORMER MEMBER OF THE FEDERAL POWER COMMISSION AND FORMER CHAIRMAN OF THE VERMONT STATE PUBLIC SERVICE BOARD, OF HINESBURG, VT.

Thank you very much for the invitation to appear before the Subcommittee on Antitrust and Monopoly regarding the political power that giant corporations have and how they use it, and steps that might be taken to minimize such concentration so as to encourage greater freedom in our economic and political affairs.

As a former regulator, both at the state and federal levels, I welcome this opportunity to press home the dangers to our society of the ever increasing power, clout some people call it, that some of our larger corporations are gathering in their hands. Maybe this time, what I say won't be almost completely ignored. On April 13, 1967, I addressed the graduate students at the Business School of the University of Chicago, saying:

"Similarly, the federal government is vitally concerned about economic decisions by large, industrial firms which increasingly dominate the economy of the country. Such decisions may well commit an enormous share of the nation's resources. The implications of these decisions should be exposed to public scrutiny, at the very least, to determine their impact upon the long-range economic and social objectives of the government. For example, there has been a recent trend towards the combination of companies engaged in providing competitive sources of fuel. Consolidated Coal has merged with Continental Oil, uniting the world's largest coal producer to one of the largest U.S. oil producers. Gulf Oil Co. has also purchased Pittsburgh Midway Coal Co. in recent months and other oil company representatives have not been reluctant to state that they are shopping for fossil fuel companies whether coal or potential shale.

"Combinations of the above nature are not of themselves necessarily bad. However, it must be remembered that traditionally we expected the various energy suppliers to keep each other honest. We have encouraged coal to fight vigorously against the invasion of its markets by the oil and gas industry . . .

"Now we are faced with an immediate prospect of an alignment of the fossil fuel industry against the atomic industry. This may be good. It may result in greater competition. On the other hand, we must be sure that the atomic industry has matured sufficiently to stand on its own two feet and slug it out with the whole fossil fuel industry. Otherwise, the atomic industry will need continued government support until that is the case. Also, the public must watch carefully any attempt by the fossil fuel industry to control that atomic industry. The recent merger of Atlantic Richfield and Nuclear Materials & Equipment Co. indicated some possible alliances in this direction. Again, these combinations of fossil fuel and uranium interests may not be detrimental to the total energy picture, but they do present a problem of substituting something other than the competition that was to keep energy prices reasonably low."

I had hoped that the electric power and petroleum industry as well as the public through its legislators would take notice, but no luck.

Maybe my voice, along with those of other interested persons such as some of the very members of this panel, are beginning to be heard. It isn't too late now but it soon will be if Congress does not act.

As any veteran of regulation knows only too well, economic power and political power are indivisible. The latter is an indispensable product of the former. The larger the corporation, the greater the political leverage. The greater the diversity in interests of the corporation, the larger the number of prospective appointments to regulatory commissions that must be influenced.

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for appointment to a federal agency, he is more than likely to be blackballed.

Once on the scene, the regulator is confronted by sweet-talking top executives, tough, hard-hitting lawyers and experts, even including experts in bugging. The doors of exclusive clubs are opened to the innocent regulators. The lure of life in the lap of luxury with minions to anticipate every desire, and until recently, without any thought as to costs becomes not just a dream but an actuality if one doesn't get too smart. On the other hand, if one does get too smart, it's back to the farm for our country bumpkin. The flattery, the press releases, the respect afforded an official regardless of performance, the cocktail parties, the utility and regulatory conventions at which comradeship between regulator and regulated is the number one business, all combine to work imperceptively and irresistibly towards prolonging "Life on the Potomac" both during and after the period of regulatory appointment. The average intelligent regulator knows only too well how easy life may be, even if he goes home, if he has played ball. The prospect of important legal clients, the thoughts of large political donations and the realization that you can be the Establishment's Number One Boy back home, or a part of the Big Scene here in Washington insures the "right decision" or, if not, at the very least, the industry lawyer starts off with the dice loaded in his favor.

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It also would be helpful to regulators if steps could be taken to insure that the managements of these large giant corporations are accountable not only to their stockholders but also to citizens directly. The time has come when the board room doors should be opened. In this connection, I would like to emphasize an idea that Ralph Nader has been advancing in recent months. As Ralph Nader pointed out, the chartering of corporations can no longer be a perfunctory exercise. Standards and criteria for management should be spelled out in the articles of association so that the prerogatives of management which the managers of utilities and other corporations insist upon reserving to themselves are performed under conditions which allow citizens to measure their effectiveness.

Sovereign states should condition their licenses so as to allow for periodic reviews of the corporations' performance under their charter. This would enable the State to insert new conditions if necessary.

A fully paid director responsible to the public in each major corporation which provides an essential product would be helpful. Such a director could be subject to recall by the filing of a petition by a designated number of citizens. He would be helpful even in a regulated industry since the private deals might be better exposed and the officers would not have the assurance that only their "own boys" were on the Board. Furthermore, a public director could serve to remind the others of their basic responsibility to keep the officers in line by serving the stockholders rather than furthering their own careers, whether by increasing their financial fortunes or egos. Hopefully, we would see no repetitions of the Penn Central situation.

The increasing concentration of economic and political power is taking its toll. Regulation is more and more difficult. Citizens are more and more dependent upon the policy decisions of government and industry leaders. Let us open up the system. Give necessary regulation a chance. Above all, give the public an economic system in which citizens' decisions can make a difference, a system in which the institutions are accountable not only to the regulator but also to the individual.

Senator HART. We will welcome next a professor who is also the author of a book that takes up one significant aspect of the subject we are discussing this morning, Prof. Robert Engler, professor of political science, City University of New York.

Professor Engler is also the author of "The Politics of Oil."
Professor, we welcome you.

STATEMENT OF ROBERT ENGLER, PROFESSOR OF POLITICAL SCIENCE, CITY UNIVERSITY OF NEW YORK

Mr. ENGLER. Thank you, Senator Hart.

The American political economy has had noteworthy successes. It also has a number of disturbing characteristics which are relevant for today's symposium:

The economic apparatus is geared to two major objectives: maintaining a permanent mobilization for global war—at a cost of at least \$1 trillion since 1946; and producing more and more of whatever is profitable—together known as national security for the American way of life.

One consequence is distorted priorities: supremacy in space and missiles but not mass transit or health; a surfeit of private gadgetry but neglect of public amenities; maintaining bases around the world, but not our own cities. We seek the loyalty of Vietnamese to our policies and ignore the fading confidence in democratic processes at home.

There prevails a celebration of private acquisitiveness as the moral and nonbureaucratic road to national development and public good. And there is a trained innocence which pretends that this remains an economy of private entrepreneurs who are haggling on an equal basis in a marketplace they are free to enter or leave.

The reality is we now have an integrated industrial economy dominated by corporate collectives with resources greater than those of most States and many nations. These control technological innovation, administer prices, generate unending consumer wants, while expanding to an international scale. I hope we talk about that last point today, and its meaning. Highly accomplished profit gatherers, they are able to shift risk and social costs to the consumer, the taxpayer and the less powerful.

Also on a large scale are unions which maintain some control over their hard-earned share of the economic pie. But they represent a minority of working people and do not challenge the underlying premises of the economy.

The current planned recession has accepted higher unemployment and a 25-percent-idle productive capacity as the price for checking inflation. Millions have been left vulnerable to hunger and poverty and basic social needs have gone unfilled. Yet the inflation has continued.

Tax and welfare systems appear designed more to preserve "trickle down" economics than to provide jobs and security.

Meanwhile, our international economic programs focus more on the quest for military allies and markets for investment than on lessening the gap between rich and poor peoples which is the root of so much world tension.

These conditions have not emerged through an inevitable turn of the business cycle, an iron law of technology or immaculate con-

ception. Economics is not value-free and must be understood in a political context. Policies derive from the social outlook and responses of those in power.

Since this symposium is concerned primarily with economic power, I will omit from further consideration the managers of our military, diplomatic, and security apparatus and the bureaucratic drives which help explain their actions. But it would be remiss not to note how many of them are from the business community, how sensitive they are to the expressed needs of organized economic power, or how readily the business ethic shapes their perspective of national interest.

Understanding how, where, and when economic power becomes political and social power is essential for public control of policy. Critical areas of economic life, such as energy, steel, transportation, communications, and banking, are ruled by private governments headed by self-perpetuating oligarchies. The oil industry, for example, is an international planning mechanism deeply involved in natural gas, coal, shale, tar sands, uranium, atomic research, petrochemicals, and synthetics.

Seven worldwide majors have combined assets worth a minimum of \$75 billion. Five of the top 10 corporations in the United States are oil corporations. One-fourth of the land area of the United States is under lease to this industry. Its economic interests lead it to police every area of public government, from local zoning commissions and State legislatures to regulatory agencies and the United Nations. It is represented through a network of advisory councils which honeycomb the Federal Government and dominate such Departments as Interior. Oil's political power in the White House, the bureaucracy, and the Congress make possible tax privileges and subsidies worth billions annually—as, for example, through our current imports policy, as Senator Hart's hearings of 1965 disclosed. The industry has a strong voice in shaping American foreign policy, as our behavior in Latin America, the Middle East, and elsewhere makes clear. Oil accounts for 30 percent of all American overseas investment, 40 percent of all American investment in undeveloped countries, and 60 percent of all American earnings from the latter regions. Public opinion has been manipulated and public government corrupted or coopted wherever they encounter the private government of oil. One can show comparable transformations from economic to political power in other sectors of the economy.

I would like to close with the following recommendations for consideration:

First. That every effort be made to end not simply the Vietnam war but the larger policies of the cold war. These have corroded every institution of this society and brought breakdown rather than security to the body politic.

Second. That the Senate support a thorough investigation of private economic power and its political impact, as currently proposed by Senator Metcalf.

Third. That all Government support of private economic power not demonstrably in the larger public interest, from tax, investment, and subsidy privileges to infiltration of administrative agencies, be challenged.

Fourth. That there be developed comprehensive and responsible policies and mechanisms for public planning to shift our political econ-

omy from war to peace. from private greed to public weal. War plant shutdowns must become opportunities, not tragedies for the communities involved. Public government must become a positive force for development, not just a relief agency for shouldering social costs after private or fragmented decisions have been made, for carrying those whom the market cripples—thus preserving an illusion about the viability of the market economy—for making more streets one way but having a minimum say about private investment in automobile production.

Fifth. Rather than surrendering to the myth of technological determinism, we must formulate a social vision for civilizing technology which will also teach us when to say "No." Ecological warnings should be incorporated into our questioning of what is enough, when growth and mindless productivity cannot be the most socially desirable goals, and where we need to focus on respect for nature and more equitable distribution for all men and women.

Such discussions and actions by public leaders might encourage citizens to believe in their own power to effect social change and in the possibility of a genuinely democratic political system.

Senator HARR. Well, thank you, Doctor.

Now—and I think it is the first time that he has participated from the other side, so to speak, of the committee table—the subcommittee welcomes its former staff director, Mr. J. S. Cohen.

Mr. Cohen is now in private practice of law. With Morton Mintz, he is the coauthor of the book "America, Incorporated" which, I might say, surprised me by its popularity—and by that I do not mean to imply a lack of confidence in its authors. That is not what I had in mind. But I am surprised that as large and as detailed an analysis as is reflected in this book found such constituency as it has, and I am delighted that it has.

Jerry Cohen.

STATEMENT OF JERRY S. COHEN, COAUTHOR OF "AMERICA, INC."

Mr. COHEN. Thank you very much, Senator.

I might say that nobody was more surprised at its popularity than its authors.

Mr. ROSS. Nor more happy.

Mr. COHEN. It was also helpful to our creditors.

If recognizing a problem means that we are making progress, certainly in this area of power, an undue power in our society, we have come a long way if for no other reason than the caliber of people that you have here today at these hearings.

If you can remember, only 4 or 5 short years ago we were sitting here arguing whether there was such a thing as economic concentration in this country. I think it took a couple of years to get that concept across—that there was concentration. Then, after we got that concept across, the big question was: "Well, these are conglomerate corporations; therefore, does it make any difference as far as individual product line industry is concerned?" And I think the subcommittee successfully related that in terms of conglomerates in relating that to products and what they meant.

Then, the subcommittee spent a lot of time on what it cost people in money—this economic concentration, and the chairman came up, I

think, with figures that have been substantiated by many others of billions and billions of dollars per year that monopoly and monopoly practices cost the American people. In fact, it is so high that usually when writers translate it they translate it into millions because they could not believe that monopoly practices could cost \$70 or \$80 billion a year in terms of people's pocketbooks.

Then, this subcommittee was the first one, through its chairman, to point out the impact of economic concentration on inflation. We, the subcommittee, were talking 2 or 3 years before phase II of the fact that monetary and fiscal policies simply could not work in a highly concentrated society and that they would not. Despite the warnings that issued by the subcommittee we proceeded on the course we have been going. We used monetary controls and we used fiscal controls—and I do not know what happened to inflation—but certainly prices kept going up. And this is, indeed, what the average person is worrying about, how much he has to pay for something.

So, it finally got to the point where we had phase II and I would like to just read a quote here:

Mandatory price and wage controls are incompatible with the free-enterprise economy and they must be regarded as a last resort appropriate only in an extreme emergency such as all-out war.

Of course, that quote is from President Nixon when he threatened to veto the Defense Production Act unless the authority given him to initiate price and wage controls was taken out of it.

The reasons we were opposed to phase II is that no one—except a very small handful of people—was willing to talk about the one thing that would have to be done if we were going to do anything about inflation, and that was to break up large corporations. Simply no one wants to talk about it; no one likes to talk about it. It is very unpleasant to talk about. So, even our corporations, who realize, I think, "This is the alternative," are willing to cooperate with us in phase II, because in my opinion they prefer controls to what would be necessary to have real competition; namely, the breaking up or their own diffusion.

Now, for the last year, there has been a lot of talk about translating economic power into political power. Of course, this is one of the things our book is all about, that economic power is political power. But in the last year Senator Harris has played an important part, and this subcommittee has played an important part, and I think you had testimony from Senator Gore earlier this week which is most persuasive, and testimony from Professor Ross here today. This kind of thing, I think, has gotten us to the point now where, at least in Washington, you do not have to argue that political power is economic power or vice versa, that economic power is political power. You still have to in some political science departments, and there are still political science professors who have not yet seen the empirical evidence. But the empirical evidence is there for anyone who is in Washington, D.C. Really, it is just a question of diffusing that kind of information out throughout the country.

As a matter of fact, I do not think that is any longer necessary. I think the average person now understands this. On a talk show, for instance, when I had been saying this kind of thing, it is amazing that, you know, a hard hat, the black—I do not care who—calling in,

just accepts this. The most critical comment I have heard is, "Well, what do you mean that big corporations run the country? I thought the insurance companies ran the country."

So, the idea is there and people understand it. I think we are passing the stage now where we really have to argue that economic power is political power. I think it is something that is at the point where it has been shown and it has been proved and we do not have to waste a lot of time on examples of that.

What concerns me more than anything else and what I think is the issue that has not been fully understood is that a divisive, decisiveness, and helplessness and frustration you can feel is everywhere in this country. not just on campuses necessarily but among the middle class, the upper middle class, or the poor or lower middle class—it makes no difference. People are simply disillusioned with their Government and their country. We have not realized, I think, what the real reason for that is. That, again, relates back again to the same economic concentration we started talking about 5 or 6 years ago. Because what we have done in this country is create a second-class citizenship far more pervasive than the kind we are used to thinking about. We have thought of blacks as second class, we have thought of chicanos as second class, we have thought of the poor as second class, and, indeed, they are subgroups within the second-class citizenry. But the real second-class citizens in this country are our human beings, people, as opposed to our corporate people.

I quote Justice Black's dissent in my prepared statement, which literally tore the Court and the law apart for intimating—for giving legal credence—to this idea that corporations are persons and corporations are people under our 14th amendment and under our constitutional provisions. To the contrary, Justice Black points out very successfully it was never intended that corporations should be people. They are not people. So we have a situation in this country where we have two classes of citizens: one class of corporate citizens and one class, the second class, of noncorporate citizens.

Professor Kloko wrote a long time ago :

Ever since the days of Theodore Roosevelt and Woodrow Wilson, corporate monopoly has been not just another interest group in American life, but . . . the keystone of power which defines the essential preconditions and functions of the larger American social order.

And I think that that just about sums it up. And if we are really concerned about second-class citizenship in this country, if due process under law or equal justice under law really means anything at all to us, then we are going to have to mount massive attacks on undue power. We have to realize that corporations are not people, that they are sovereigns with the power to tax, the power to take life, and the power to do things that human people cannot do.

I might just say as an aside—and this is also in the prepared text: When the four major oil companies were up for sentencing for pollution of the Santa Barbara Channel, the court dismissed something like 342 counts, found them guilty of one and fined them \$500 apiece and said that they had already suffered enough. And it is little wonder that when an average guy who is imprisoned, literally imprisoned, for not paying a traffic ticket sees this kind of thing he feels a sense of cynicism and frustration. The papers are full of it everyday.

Now, in closing, I am going to read the last paragraph of our book. I think it sums this thing up—as well as I can, anyhow:

Now that modern technology is making the giant corporation obsolete, there is no remaining justification for excessive corporate power. Neither private socialism nor public socialism is permissible for a society that seeks to fulfill democratic aspirations and to free the individual to exercise independent choice and initiative. Concentrated economic power lies at the core of much of the unrest, injustice, and unresponsive government that beset us. Until it is removed, we can fiddle with this and that, but true progress will elude us.

When we diffuse economic concentration, we will, at the same time, be ending second-class citizenship. If Government wants to regain the respect and confidence of the American people, its obsession with the welfare of the corporate person must give way to an equal concern for the human person.

And, not at this point but later on, I would like to make a few comments in regard to the role of labor unions, in response to the comments of Professor Houthakker.

Thank you.

(The prepared statement submitted by Mr. Cohen reads in full as follows. Testimony resumes on p. 268.)

TESTIMONY OF JERRY S. COHEN, COAUTHOR (WITH MORTON MINTZ) OF
"AMERICA, INC."

It is, I think, significant that at a time when offensives have been mounted with some success against racism and sexism, we are failing to act against—indeed, even perceive—the most pervasive form of second-class citizenship. It is a form of discrimination that singles out men, women and even children; that cares not for their racial origins. Even if the victims with which it deals most harshly are the poor, it does not spare the middle class.

The inequality to which I refer is that which makes the corporation a first-class citizen, even though it is a child of law and not of flesh and blood, and which makes the human being a second-class citizen. It is difficult to pretend any longer that there is "Equal Justice Under Law," or even that this is an ideal destined someday to be achieved. The law simply cannot bestow equal justice so long as there are two separate and unequal classes of citizens—one that cannot be imprisoned and another that can, one for whom the most severe penalty is the punishment of its capital, and another that can receive capital punishment.

When Mr. Justice Black died last September, we were reminded of his many brilliant dissents that, with the passage of time which enhanced recognition of his wisdom, became law. But one of his dissents, eloquent and keen in its analysis as many of the rest, drew little notice, probably because it has not been vindicated. Not yet, that is. In 1938, in *Connecticut General v. Johnson*, Mr. Justice Black dealt with the question whether the framers of the Fourteenth Amendment intended the word "person" to denote a corporation as well as a living human being. He said:

"Certainly, when the Fourteenth Amendment was submitted for approval, the people were not told that the states of the South were to be denied their normal relationship with the Federal Government unless they ratified an amendment granting new and revolutionary rights to corporations . . . The history of the Amendment proves that the people were told that its purpose was to protect weak and helpless human beings and were not told that it was intended to remove corporations in any fashion from the control of state governments. The Fourteenth Amendment followed the freedom of a race from slavery. Justice Swayne said in the *Slaughter House Cases*, *supra*, that 'by "any person" was meant *all* persons within the jurisdiction of the State. No distinction is intimated on account of race or color.'

"Corporations have neither race nor color. He knew the Amendment was intended to protect the life, liberty and property of *human* beings."

More than three decades have gone by since Hugo Black made this protest, but human citizens have become, if anything, more second-class than ever.

The reason is easily discerned: the State has given the corporation special legal means to acquire great wealth and power. No one should be surprised, therefore, if it does so. A corporation being an entity without a soul and without a conscience, its rewards must be earthly, because the gates of Heaven and Hell can be opened only to flesh and blood. The problem this creates, and which we have yet to face, is that economic power is political power—a proposition known, needless to say, to this Subcommittee.

Campaign contributions, of course, are an important manifestation. The giant corporation is able to channel vast sums of money to candidates who do what it wants done. The oil industry is as good example as any. Indeed, before Senator Proxmire, the independent refiners testified recently that small producers were being driven out of business by political contributions of the giants that pay off in tax favors.

But, also important, the giant corporation is able to manipulate public governments in a way human beings seldom can. This is because of the leverage its corporate function and form gives it. The corporation, for example, determines employment patterns—literally whether cities or areas will live or die. It has large tax bases upon which governments depend. One can cite many other forms of corporate leverage. Is it, then, any wonder that the great corporation can exercise power which dwarfs that of the individual?

It is, I believe, difficult to think of counterparts in humankind for, say, the case of the El Paso Natural Gas Co., the largest pipeline firm in the nation. Four times in seven years, as you, Senator Hart, well know, the Supreme Court ruled an acquisition El Paso had made illegal. But the divestiture the Court ordered was not undertaken; instead, El Paso spent millions upon millions of dollars to fight in the lower courts, and then to wage an enormous public relations campaign and, finally, to come within a hair's breadth of success in having a law passed to repeal the Supreme Court rulings.

Of especial importance in these times is that the corporation is able to use government for its own ends, while the individual is experiencing agonies of powerlessness and frustration.

The corporation looks upon men in public life and upon politicians as investments—investments, by the way, which can pay great dividends.

The major oil companies, somehow, have settled a one billion dollar tax assessment for fifty cents on the dollar. No other information is available. Do human taxpayers get the same treatment?

When a giant corporation, through poor management, gets into trouble, it can get a quarter of a billion dollar welfare subsidy. This is somewhat better than the human welfare recipient who may get his more modest stipend cut off because of a television set in the house, or the small businessman who runs into problems because of the predatory practices of the large corporation.

The FCC has determined that AT&T is too big to be regulated, so it is free to determine its own rate base. Unfortunately, no human citizen is so big that government cannot regulate his life.

The major steel corporations can use their economic power to persuade the government to negotiate contracts in restraint of trade with foreign powers, so that they need not face meaningful competition. So can the textile industry. If they did it themselves, of course, they would be violating the antitrust laws.

Law and order, obviously, means one thing when applied to corporations which, for years, have regarded the pollution laws and the antitrust laws—which carry criminal penalties—as something to be violated with impunity. Just a few days ago, four major oil companies were fined \$500.00 each on one count of criminal pollution of the Santa Barbara Channel. The Judge dismissed 342 remaining counts, saying the companies had “suffered sufficiently.” Is it any wonder that human citizens grow confused and cynical?

Phase II is intertwined with all of this. With competition dying because of our acquiescence in the economic power of these giant first-class citizens, the corporate state is joining with the public state. The pervasive regulation that is taking over is a process which the great corporations seem to prefer to the competitive process. Yet, controls and human fulfillment are at odds.

As Dan Fustfeld, the University of Michigan economist, has said: “An organization combining representatives of business, labor and the public, under the leadership of government officials, seeks to define national economic policy with respect to wages and prices, makes decisions that bring those policies into effect, and has the legal sanctions necessary to enforce its decisions. Whatever one may think of the wisdom or effectiveness of the policies and their administration, we must recognize here both the philosophy and the mode of operation of the cor-

porate state: individual interests are subordinated to the common good, which is determined by representatives of the chief economic interests affected, and the decisions enforced by the state. It echoes the style pioneered by Fascist Italy and tried once before in this country by the NRA of the 1930's."

The secretary and the non-organized worker, for instance, have precise guidelines which limit their incomes. So, apparently, does the worker on sub-standard wages. National Steel, however, can get approval for an eight per cent price increase. And no explanations are forthcoming. So can hundreds of other corporations get varying increases without any in depth study to determine if there is real need.

Other examples of the translation of economic power into political power are both legion and legend. "America, Inc." contains many, but so do a multitude of other sources, including persuasive testimony before this Subcommittee.

It is a fair statement, I believe, that we are drifting faster than we realize toward a corporate state—toward an economic, political and social feudalism.

Gabriel Kolko, the historian, has written: "Ever since the days of Theodore Roosevelt and Woodrow Wilson, corporate monopoly has been not just another interest group in American life, but . . . the keystone of power which defines the essential preconditions and functions of the larger American social order."

The needed solution is a massive attack on undue power. This requires a realization that giant corporations act and should be reacted to as nation-states, not as persons.

As we conclude in our book: "Now that modern technology is making the giant corporation obsolete, there is no remaining justification for excessive corporate power. Neither private socialism nor public socialism is permissible for a society that seeks to fulfill democratic aspirations and to free the individual to exercise independent choice and initiative. Concentrated economic power lies at the core of much of the unrest, injustice, and unresponsive government that beset us. Until it is removed, we can fiddle with this and that, but true progress will elude us."

When we diffuse economic concentration, we will, at the same time, be ending second-class citizenship. If government wants to regain the respect and confidence of the American people, its obsession with the welfare of the corporate person must give way to an equal concern for the human person.

Senator HART. Next the subcommittee welcomes Mr. Mark Green. Mr. Mark Green is with the Corporate Accountability Research Group and was the project director and, I believe, editor of "The Closed Enterprise System" which was done by the Nader study group—a report on antitrust enforcement which created considerable discussion, and continues to.

Mr. Green, we welcome you this morning.

STATEMENT OF MARK GREEN, CORPORATE ACCOUNTABILITY RESEARCH GROUP

Mr. GREEN. Thank you, Senator Hart.

For the sake of time, and due to a lengthy prepared statement, I will be skipping over parts of my remarks, but I would like to start with a representative incident on my mind.

A New York Times editorial of January 17, 1972, 4 days ago, entitled "The Penn-Central Inquest," asked "Where was the Antitrust Division of the Department of Justice when this merger was rammed through?" Actually, the Antitrust Division was eager to block this anticompetitive consolidation but their superiors in the Justice Department and White House were not. In 1964 Attorney General Robert Kennedy had decided to run for the Senate from New York. Although he opposed the merger on its merits, he wanted a free hand to favor it, if necessary, as a Senator from an interested State. The chairman of the Pennsylvania Railroad, Stuart Saunders, and the then Deputy Attorney General, Nicholas Katzenbach, convinced Ken-

nedy to write a memorandum to the files as a resolution to his dilemma: the memorandum would urge Kennedy's successor not to contest the merger in court if it was approved by the ICC.

Katzenbach assumed that no letter to the files could really bind a later Attorney General; in such situations, he explained to me in an interview—and, I could editorialize, it reveals a somewhat Machiavelian motive—"Why not get a political benefit from what you are going to do anyway?" But it was logical that Saunders did not forget Katzenbach's role and view when it came time for Katzenbach to make decisions as Attorney General. When the Antitrust Division recommended to him that they oppose the merger outright at the ICC, Katzenbach never even replied to the request. One acknowledgeable Division attorney on the case thought that "Katzenbach's" memo had "immobilized him."

Two years later, while the merger was still pending at the ICC, President Johnson took Ramsey Clark, his Attorney General, to meet with five New England Governors and the Vice Chairman of the ICC. "They yelled at me for opposing the merger before the ICC," Ramsey Clark said in an interview, "citing the argument that the New Haven had to be saved." Clark said he was ethically upset at the presence of an ICC commissioner on the issue awaiting adjudication.

After the merger was finally approved by the ICC and made effective in 1968, President Johnson called Stuart Saunders to congratulate him. Saunders later gratefully observed, "I could never have gotten the merger through without help from members of the Administration."

"The politics of antitrust" contain many such case studies, all representing the intimate connection between corporate power and political power. That large corporations are undemocratic and powerful is a modern theme stretching from Berle's and Mean's 1934 "The Modern Corporation and Private Property" to the years of hearings on economic concentration held by this subcommittee. Less discussed by the press, the public and politicians, however, is precisely how our giant firms translate their economic muscle into political strength. It is commendable that this subcommittee today focuses on that issue, and I am grateful for the opportunity to participate and share in the dialogue.

How does business exercise political power? There are four basic ways. First, observers from the Landis report to the Nader reports have documented business control over the independent regulatory agencies. The regulators and regulatees populating the "regulatory-industrial complex" remind one of the last line of "Animal Farm," where the humans and animals had grown to become indistinguishable from each other. A second manifestation of corporate power is the network of business advisory councils in the executive branch. Third, there is the army of lobbyists. Finally, there is campaign spending and financing which Senator Harris has already discussed.

Many at this point might protest: Exactly what is wrong with corporations, like other people, petitioning their Government? I wish it was so neutral. First, they can throw extraordinary resources into the issue—which is different from you and me. Second, a major corporation can get special access to special people. When United Fruit was being investigated by the Antitrust Division in 1964, its president asked his

lawyer to check with the Attorney General on the matter. His lawyer did, his lawyer being Senator Everett Dirksen. Third, the effect can have momentous public impact, not just another anti- or pro-war letter to a congressman, that is, GM cannot really hide behind the fiction that it is just another person playing pluralistic politics. "Corporate institutions are not voluntary associations with individuals as members," Prof. Andrew Hacker has observed, "but rather associations of assets, and no theory yet propounded has declared that machines are entitled to a voice in the democratic process."

Fourth, to the extent antitrust enforcement is obstructed, competition and its benefits for consumers go unachieved. Economist William Shepherd of the University of Michigan estimates that \$23 billion annually is unnecessarily transferred from consumers to corporations due to our lack of industrial competition. And enforcement is affected not only by direct political thrusts but by what you could call anticipatory politics. Many Justice Department staff think it unwise to suggest certain big cases—say a GM-divestiture suit or one to split-off the networks from producing programs either because they know it will not get politically by the Attorney General or because, even if it is successful, Congress will overrule it anyway. All of which begins to give shape to the populist lament of FCC Commissioner Nicholas Johnson: "I think basically you have to start with a realization that the country is principally run by big business for the rich . . . A government of the people, by the people, and for the people, you know, has become, I think, a government of the people, certainly, but by the corporations and for the rich."

Accepting that the corporate estate has political power, what then are the costs of increasing concentration of economic power? As economic diversity decreases, the number of units contributing to the political process decreases accordingly. And as political pluralism weakens, so does democracy. But as business has gotten bigger, and as large numbers of independent firms are swallowed up, we accelerate toward "America, Inc." in Morton Mintz's and Jerry Cohen's phrase, "one gigantic industrial and financial complex functioning much like a separate government." It is the kind of power the Founding Fathers were loathe to repose in one entity, and it is the kind of centralized power that both radicals and rightists abhor.

The effects are both social and political. Socially, not only are people increasingly governed by distant operatives, but overall economic mobility is reduced as the number of important independent firms dwindle. As we approach being a "company" country, job mobility declines and employees are compelled to embrace job security more than ever. "Free enterprise" converts itself into a paternal and threatening relationship between management and employee, the kind of dependence found both in the cartelized Japanese economy and the communized Soviet economy.

Politically, when a conglomerate like ITT, with employees in all 50 States, has a problem on Capitol Hill, it can command a new kind of attention. This technique was employed by ITT in its effort to merge with the ABC network in 1968. It enlisted 300 Congressmen and Senators, according to Robert Baker, a Government lawyer on the case, to complain to the Antitrust Division about its intervention at the FCC in opposition to the merger.

As big firms push out or buy out the small, another political cost is suffered: The "mavericks" of industry disappear. A maverick firm is one which is innovative when others are complacent, cuts prices when others follow the pricing leader, refuses the invitation to price-fix or tells the Government about it. Its disappearance reduces a source of political options. Prof. Milton Friedman has argued that a great benefit of the competitive system is the capitalistic patron, the wealthy eccentric who will donate to some public cause or legislative candidate which others shun. As the number of private sources for funds are reduced, the unpopular or new cause finds it more difficult to get backing. For example, if General Motors will not donate money to the programs of Saul Alinsky, Gordon Sherman of the Midas Muffler Foundation will do so.

There are a number of possible ways to untie the link between corporate power and political power. One, already discussed, is serious reform of campaign spending. Another would be an effective reporting requirement, requiring a corporation to list every visit with—and the purpose for every visit with—the Assistant Attorney General for Antitrust, the Deputy Attorney General, the Attorney General, or anyone in the White House, including the President. This rule discourages clandestine meetings which could not endure the glare of public exposure; it also can encourage countervailing interests to present their views once they become aware that special interests with special access had communicated their positions. The histories of both the 1925 Federal Corrupt Practices Act and the 1946 Lobbying Registration Act, however, make me less than optimistic about these proposals.

But if we are talking about possible solutions, we should look beyond merely tinkering with the behavioral misdeeds of corporations and emphasize the structure of corporate power itself. Not only should the coordination between business and Government be defacilitated, but the extent of corporate power itself must be reduced and restrained. As the best means in my view toward that end, I would strongly propose the adoption of a Federal chartering act. State incorporation, which is presently the rule, has utterly failed to regulate effectively the size and manner of corporate power. To get the business of corporate chartering, States have competed to the lowest common denominator—the winner of the contest for corporate clientele being the State of least restriction. Although New Jersey took the lead toward the turn of the century by legalizing holding companies, Delaware became the most "liberal" State for incorporation by 1900, an advantage she has not to this day relinquished. Corporate charters were once handed out by legislatures subject to careful conditions to insure the service of the public interest. Later, general statutes made them more easily available but still subject to limitations on size, scope, mergers, location, and longevity. The contest to worst each other has resulted in general enabling statutes which in no way strictly harness corporate excesses.

But beyond the permissive bias of what has been called the Reno problem, you just cannot expect Delaware, for example, to tell du Pont or GM anything. "The century and a half of state failure," wrote one observer in 1942, "has been the story of a battle between corporate giants and legal pygmies."

At a time when the Federal Government becomes increasingly prominent in salvaging our ailing economy, it is an anachronism for the States to create and "control" corporations which market nationally and internationally. Given its original purpose and the progression of industrial America in the last 2 centuries, State incorporation makes as much contemporary sense as public flogging, the slave trade, and minuets at inaugural balls. If a criminal crosses State borders the FBI is called in; if a person crosses a State line with an intent to riot, and does, the Interstate Riot Act has jurisdiction; if a commodity travels interstate so too should the jurisdiction of the Federal Government be called into play.

A Federal chartering act should apply to the top 2,000 or so firms doing business interstate. To avoid unnecessary bureaucratization, it is wise to limit its scope to those firms most in need of more effective public scrutiny. Specific provisions of such an act could include among others: strict antitrust provisions, making shared monopolies illegal; improvements in corporate democracy, redressing the present imbalance of power between shareholders and management; detailed corporate disclosure requirements, encompassing financial reporting by product line and more public disclosure of product testing, product ingredients, pollution emissions, occupational health and safety conditions, and so forth, and a bill for nonunionized employees which would largely apply to professional and white-collar employees.

A new Federal chartering agency would be, in my view, constitutional, far more efficient than the 50-State equivalents, and not as cumbersome or co-opted as the ICC or CAB. Objective standardization—has the firm exceeded its permissible market percentage; has profit and loss data for plant X been submitted—would replace the imbroglios of rate determinations.

Federal incorporation to contain corporate power is a radically conservative idea, approved of at one time or another by James Madison, Presidents Roosevelt, Taft, and Wilson, and Senators O'Mahoney and Borah. I consider it the most realistic and efficient way to stress that what is needed now is not a corporate bill of rights but a corporate bill of obligations.

Thank you.

Senator HART. Thank you. Mr. Green.

Several of you, in asides as you were making your opening statements, indicated a desire to respond to certain things that had already been said.

Let me ask just one question and then please feel free to make inquiries directly of one another.

Mr. Green, you wind up, after reciting some of the aspects of the problem, by suggesting that we zero in on Federal chartering. Does that mean that you dismiss the idea of restructuring by deconcentration, or do you conceive the chartering operation as including that where appropriate?

Mr. GREEN. As I mentioned it today, I would have to include the restructuring of American industry in the charter. Otherwise, you would be forever sanctioning the existing level of concentration in America which, I agree with my copanelists, is far too high, and that is the antitrust component I mentioned that would involve the deconcentration and decentralization of what has been called "shared monopoly."

Senator HART. I do, Mr. Ross, remember clearly that you said that you wanted to add something.

Mr. ROSS. I would like to ask Mr. Green a question or two on this particular subject of chartering, as to whether he feels that we should limit our scrutiny to private corporations entirely or whether or not it might be just as advantageous to look at public corporations who use prominent citizens to serve on the boards of trustees to give the corporation's actions a sense of public interest, these trustees normally never attend meetings, and they become a source unto themselves, and such corporations and foundations are increasingly having a tremendous impact on the economic life of the country.

Mr. GREEN. I agree with your proposal that there should be public directors on boards of major corporations to avoid this phenomena which now occurs of boards of directors' meetings involving a director who comes in and falls asleep, eats lunch and leaves. The proposal most recently recommended by Robert Townsend insists also that the public director have an independent staff and budget so that he would be a kind of an independent ombudsman within the firm, ferreting out and whistle-blowing on what he could come across.

The second part, whether the Federal Chartering Agency should include utilities is as yet open. Would one have it apply only to the nonregulated industrial sectors, depending on the existing regulatory agencies, the ICC and CAB, and others to reform themselves, or could it be included under the umbrella of the Federal Chartering Act? But the danger of that is that critics would then leap and say "You are creating the most monstrous bureaucracy of all."

The agency that I would envision would be as tailored and as specific and narrow as possible to avoid just that problem.

Mr. COHEN. I might just add, Senator, one of the problems of putting too much emphasis and having public members on corporations is you wonder how effective they will be over a period of time. You see, we have the public members on boards and commissions, and over a period of time they tend to be somewhat less than public and tend to take on the coloration of the atmosphere that they are in like a salamander. If we assume—as I think most of us do—that the actual problem is structural and if we assume further that in Congress you may have one shot at this thing, then I think you have to take that vehicle which is going to be the most flexible and is going to mean the most over a longer period of time.

Now, a deconcentration bill makes good sense as far as it goes, and it hits a portion of the problem. Talking about bills, too, outright refusals to sell, that gets at part of the problem but it seems to me that the only flexible way, really, to deal with structure and behavior at the same time, given the background that we have one shot and if you get a decentralization or a deconcentration bill through it will probably be for the next 20 years, is to deal with it by a proper Federal Chartering Act which would give you a much greater flexibility than you are going to get in only a deconcentration act. And the Federal Chartering Act, in my opinion, should initially and basically contain a restructuring kind of a provision which says that you can engage in the following industries. Remember, in the old days, the old corporation books on law always had such things as "the ultra vires acts." All of these were ultra vires acts. And then New Jersey says that you can put in the charter "and for other purposes." Then, goes ultra vires.

And how do you deal with conglomerates? Do you write in the charter that you are being chartered for this purpose, this industry and, you know, whatever happens to be around, and that you are allowed to get up to a certain percentage of an industry, and after that certain percentage you may have to spin off, or do something else, but that could be written in the charter.

The other thing we know that causes so much problem in the major corporations is secrecy. We had twice hearings recently on secrecy, the reporting, the reporting on a consolidated balance sheet. The secrecy provisions can be written into it. If you are federally chartered, you can deal with the question of secrecy. If you are federally chartered, you can deal with the problem of public members, and, as soon as you can, why, you have only shot, and it seems to me this is your best way to handle it, the one that is the most flexible allows the most leeway, a framework of some kind of Federal chartering bill, whatever that would be.

Senator HART. Well, but there again don't you—maybe not. You are going to have the equivalent of the U.S. Secretary of State who, 50 years from now, will have a bulging set of corporate charters that he issued, and the bureaucracy, isn't that, in a sense, something that will evolve ultimately in a sort of another regulatory agency?

Mr. ROSS. Not if our experience in the environmental movement means anything, and the demand, for example, in regulatory agencies for the right of public participation with class lawsuits. If you provide a citizen with a standard, with a condition that he can show that it has been violated, and leave to a citizen or a class group of consumers the right to bring national enforcement with some degree of financial assistance. I mean structured in some way that these people are not totally without financial resources, so that the citizens are policing these corporations and policing such a Federal chartering provision. I think it could work, and the environmentalists are certainly showing their clout. In recent years they have and they presently are. At the Administrative Conference, of which I am a public member, we had a provision under a proposed rule for the right of the public to participate. We had a provision which would have allowed access to the staff of regulatory agencies with some financial assistance. That part of the proposed rule got voted down, but it is coming.

So, I do not think you will have to rely upon any vast Federal bureaucracy that might develop anyway. There are other prospective mechanisms. That is what I am saying.

Mr. COHEN. The last comment: If the Federal charter were drawn properly I think it would have the opposite effect, where you would have a bureaucracy for telling people what prices are and what wages are to be paid, and if you are going to do the job right you have got to have the bureaucracy. You have to lay out the position and have it chartered ahead of time that you may have only 15 percent of this industry and you are willing to produce electrical items and related products, and you must file that balance sheet and profit-and-loss statement broken down by your products. This is telling them ahead of time what they have to do, but it is geared in such a way that it is really structuring, it is laying out the structure under which they are going to operate, but it does not get into the detail of how you run

your business and where you really get into regulation, you know, what rate should A.T. & T. charge. This, to me where you require the framework, actually the charter, the purpose, would be laying out a competitive framework which, hopefully, would, coupled with the citizen enforcement, be a very good idea.

Mr. GREEN. I would add to that point that the goal of the agency would be the same goal we see for the economy, to make it as self-regulating as possible. The way to do that is to have these objective standards and also to have citizen suits to require the agency to move if it is not moving. But, also—and while I think Jerry Cohen and I would agree with the concept of Federal chartering, we may disagree with some of the provisions for example—I would hesitate to include in a charter requirement about diversification. Can GM make cars and refrigerators? Can ITT both make bread and drive cars? Once you start making those kind of decisions—since conglomerates are dangerous, but at times they can be pro-competitive as when they enter or have a foothold in a new industry—those kinds of decisions make themselves open to fleets of economists and lawyers coming and arguing every side of every question, and then you have these long, long hearings that now strap down the ICC or a large antitrust case. But on the point of access, you have bureaucracy, and to that extent you have bureaucracy you have to have public oversight. A corporate counsel of a Midwestern State recently advised my office—he was a year out of law school—that he was the only official in the State with any daily oversight over the charters which were filed in that State.

There were 100,000 corporations that filed with his State. Obviously this was an inadequate monitoring mechanism. But one year the secretary of state of that State sent letters to 20,000 corporations which had failed to file their annual report with that State. There was a statutory requirement saying that if you do not send it in within 2 months, you will be disenfranchised. Well, A.T. & T., a major college in that State, and a major railroad did not send in their annual reports. In that State they did not exist legally, but nothing happened. There was no operational impact in that State. I would argue that only the Federal Government, as I argue in my statement, can have the leverage and the power to contest these corporate giants and to impose sanctions if they fail some of the requirements, which would require corporate disclosure and antitrust enforcement, with the ultimate sanction being used rarely, which is something of a judicial guillotine sanction, but judges will not use it—disenfranchisement.

Senator HART. On the opposite side of that, both Dr. Engler and Dr. Houthakker, have some comments they want to develop about the international corporation. You described the large national corporation where a State is almost an irrelevancy. Have you given any thought as to whether Federal charters, at least the larger companies, would be helpful to the problem of evolving international corporations?

I wonder if Dr. Engler could answer Dr. Houthakker?

Mr. ENGLER. That is a tough question, and I have to breakup what appears to be the harmony of all good souls this morning.

Senator HART. It would not be a great deal of harmony even if all agreed what is said is right and then we sat down to draft the bill. That is where you get into the real heavy work.

MR. CHUMBRIS. We do not mind bringing in a little disharmony into the discussion. This is all sort of one-sided up to this point, except Dr. Houthakker's paper.

MR. ENGLER. My preference is for the long view. I think I would support, or entertain sympathetically everything that I heard about raising questions about making regulatory agencies work, enforcing the antitrust laws, trying to see if you can have a competitive model, and so forth.

But I would like to say that such approaches by themselves guarantee full employment for the critics of society; they guarantee that Senator Hart and his successors will be here forever to deplore abuses of private power that continue. I might add that I have no illusions that public government assures virtue. The history of most governments, public or private, including our own, has very often in many ways been a history of tyranny.

So, I have no simple, magical conclusion.

But what troubles me is that I hear almost no discussion of anything fundamental, beyond the issue of bigness. That bigness is bad is an old and honorable claim. And certainly the question of scale is critical if institutions are to be responsible and communities livable. But if we take an area, let us say oil, there is nothing very notable or honorable about the behavior of the small oilman in the Pennsylvania or Texas oil fields. For example, it has been the giant oil companies that, for their own interests, have been able to think in terms of conservation and longrun development. What I am really saying is that unless you are accepting that what is is what ought to be, we should begin asking questions about what kind of a society we want. I do not hear—I do not get a sense of how these proposals about bigness would either define or tackle the specific problems of housing, of health, of communications, to cite a few. I think approaches may vary in each area. There is no one overall answer.

For example, in the case of concentration of control over radio and television, there is no technological justification that I know of for control of these media by a handful of people. There, I would mount a fight for making them common carriers so that a wider range of people could have access to these technical devices.

In the area of housing, I would like to hear discussion of what it would take to supply basic housing needs in this society. To assume that you broke up or challenged the large giants, whom I, too, am critical of, and thereby would automatically resolve this underlying question as to the purposes of your economy, to me seems naive. The modern corporations need a great deal of examination. Increasingly, they are international. The really giant corporations, as Richard Barnet is arguing in a new book coming out next month, are returning to an older view which ought to be examined. They are impatient with nation states and their rather tired and crippling rivalries. For example, I. J. Farber and Jersey Standard in the late 1920's negotiated an extraordinary set of agreements, really a world treaty. One part concerned what to do in case of war between Germany and the United States. They worked out a solution, and in antitrust actions and Senate hearings it was subsequently disclosed that Jersey Standard and I. J. Farber, the arm of the Nazi Wehrmacht had created a number of patent arrangements which helped Germany develop its aviation gas

refining facilities, denied synthetic rubber to the United States, and protected joint patents from U.S. seizure. In defense of these actions, the head of Jersey's Standard Oil Development Corp. explained that while "national rivalries come and go, technology has to carry on and corporations have to look ahead and plan for orderly growth, war or no war."

This is a view which ought to be examined quite closely; a number of giant corporations can live and will live with an extraordinary number of governmental regulations which their critics think will disturb their power. I submit that the international oil industry, for example, will live with nationalization of oil in many of the producing countries, and it has lived with it, and it still has vast political power which shapes foreign policy and controls so much of this town.

Mr. ROSS. Why do they have extraordinary political power?

Mr. ENGLER. Where?

Mr. ROSS. I said, "Why?"

Mr. ENGLER. Because they control the jugular. If you are talking about oil, the giant corporations control the energy base of industrial society. This is a society that has assumed its energy industry could be in the hands of private people whose main calculation is "How do I make the buck?" And now the oil industry, closely linked to natural gas, is taking over the coal industry, and is moving into uranium, tar sands, shale, and petrochemicals. Given that premise, what is your charge against them? That they have succeeded? That they have done well by this ethic?

As long as Americans are told that the basic ethic which ought to govern our society is "getting yours," then what are we up against? We are up against people who may be more successful at "getting yours."

I am in favor of a search for appropriate regulatory strategies. I think one of the great public servants was a man named Leland Olds who tried to understand corporate control, and to offer alternatives for dealing with the energy industry, from regulation to yardsticks, such as the TVA. John Blair, formerly of Senator Hart's staff, represented a point of view which I am not sure I would share completely—I want to know more about it—but he argues that technology makes possible decentralization in many important ways.

Mr. Cohen, you state in the last paragraph, but you do not prove it to me, that we need neither public socialism or corporate socialism.

Mr. COHEN. I might say that there are 362 pages prior to the last paragraph, and about 120 of them go to that point.

Mr. ENGLER. I understand, but what I am trying to say is that some place along the line we ought to begin asking what we want an economy for. Economics and political institutions are not ends. They are tools, tools to make possible a society within which people can face their collective problems while being free to write poetry, to go fishing, go for a walk, make love, and live private lives. We are dealing with the mechanism as if these tools are ends. I think that we are confusing something. We need to ask what the economy can do for us, and then talk about where it should be decentralized, where we see no alternatives but the yardstick or Federal regulatory acts. Where there is absolutely no justification for concentration of control over development, where one giant, central force, national or international, might

be the best solution. I think we have to look at the purposes as well as the structure of our institutions in the various substantive areas we are talking about.

Senator HARRIS. I find that so unspecific that I cannot use it.

Mr. CHUMBRIS. Mr. Chairman?

Mr. ENGLER. Let us talk to a specific point.

Senator HARRIS. You say: "What do you have a society for?" That is an interesting question, but can you give us some answers. How can we move from that wonderful question to any kind of specific action?

Mr. CHUMBRIS. Before you move away from that one point, since Senator Hruska is not here, may I pose a question which I would like to hear some discussion on? I think Dr. Engler has put his finger on this in this last colloquy, talking about power.

Now, you mention in your conversation, those big oil companies in the foreign countries. But you also mention that they could live with nationalization. Now, I would comment that those countries have the power to cut those companies off as far as being owners of property, and they may have to live with nationalization.

Now, the same thing about power applies in this country. And my good friend and former colleague, Jerry Cohen, pointed out that major steel corporations can use their economic power to persuade the Government to negotiate contracts, restraint of trade with foreign powers, so they need not face meaningful competition.

Now, that might have been a situation where these corporations presented their problem to the Congress or to the White House, and they felt that, in the best interests of the public this should be done.

But Jerry Cohen did not mention that in 1962, when four or five steel companies raised their prices and the White House retaliated through seven or eight or nine or maybe 10 agencies and departments with such fury that within a 3-day period, those companies withdrew that price increase.

Now, who had the greatest power, the five companies who raised their prices or the U.S. Government that made them back down?

And Dr. Houthakker referred to the power of the labor unions. So, I think, if this discussion is going to be meaningful, you ought to look at it in this sense: How powerful is the Federal Government, how powerful is the labor union, and how powerful is industry in competing against each other to see whose power is going to be superior?

And, as I mentioned to you, Dr. Engler, when you testified before us on April 2, 1969, on your politics of oil I told you that day—and we did not have much time because the clock was running out if you remember correctly—I summed up and I mentioned to you that day that there are people in this country who believe that the most powerful influence in this country is either the labor unions or the Federal Government and that big business runs a bad third.

And Dr. Houthakker mentioned it here today, saying that as long as labor unions have the power to raise wages and the companies will say, "Do I want a strike, to cut down my plants and put people out of work and not have the product and hurt the economy like the automobile strike hurt us in 1968, or do I pass that wage increase on to higher prices and the consumer must pay for it?"

And when they start thinking about it, sometimes they agree to the wage contract, and other times they will say, "No, sir; you go ahead

and strike." And that is why we have had steel strikes, automobile strikes, communications strikes, and west coast strikes, and railroad strikes.

So, when you gentlemen start talking about these three "bigs"—labor, Government, and business—then try to decide which is the biggest and which is the weakest, I think then you are going to have a meaningful discussion here.

Mr. ROSS. And the citizens of the United States have decided that they are fed up with all three of them; that is, the average man in the street.

Mr. CHUMBRIS. The people of the United States have a certain amount of control because they elect officials to come to Congress. They elect the President of the United States; they elect the State legislators. So they have certain control over them. The people of the United States are also the stockholders of the various corporations, and they have a say here.

Senator HART. And there are a lot of stockholders who wonder who is running them.

Mr. ROSS. They do not know what is going on in Washington a lot of the time.

Mr. GREEN. To focus the conversation, I would like to answer a question that you asked, where there was the price rollback and asked who was more powerful, the five steel corporations or the U.S. Government, and I would like to say, respectfully, the steel corporations.

In the price rollback in 1962 and for the past 15 years, the steel prices have increased by fourfold the general price index, and it is an industry that is exceedingly concentrated. Recently, there was a merger creating the fourth largest steel firm which increased concentration, and when Attorney General Mitchell was asked to stop that merger by his Antitrust Division, he refused. Recently, the Price Commission of phase II permitted the steel firms a 3.2-percent general pricing increase across the board. They were not checking specific commodities, but hoped that it would average out to 3.2 percent.

What happened on commodities? Where there was competition in steel, there was no price increase. On those commodities where there was not competition, there was a 6.4-percent increase, exactly double. Steel got exactly what it wanted.

In terms of steel prices, in terms of policy, and in terms of the Price Commission, I would argue that, historically, the steel industry has gotten precisely what it wanted, although occasionally the Government has run against it.

Mr. CHUMBRIS. Mr. Green, I do not want to reargue the steel case because we had a steel hearing in 1957. But there was a very disputable question of fact between Dr. Brubaker of the United Steelworkers and with Jules Backman in his paper that was submitted to our subcommittee. I could argue Dr. Brubaker was taking one theory and Jules Backman was taking another. At that time, we were talking about \$6 a ton increase which turned out to be about \$5.50 a ton. Senator Kefauver admitted that the \$3.17 increase was required because of that increase in wages. The only thing that the steel companies said was, "If we had the \$3.17 increase due to wages, we also need another \$3 increase to match the other increases that go along with wages because wages go around the board." So, the price of materials go up, the

cost of transportation went up, the cost of this and that was argued back and forth.

So, let us not argue the steel case as an incident, because I think the facts will show that you have your philosophy, Doctor, and Jules Backman has his to point out. Most companies will increase their prices year by year, but steel had to wait from 1957 to whatever the year it was—1962—to try and raise it again. And, then, according to testimony that is in this record, while other companies were raising their prices between 1963 and 1964 and 1965 when the Vietnam war caused this runaway inflation, steel was only allowed to increase it 1 percent.

Dr. Mueller had it in his paper the first day of the testimony. He stated that steel was only allowed to raise their prices by 1 percent a year until the new administration came in. They quit this jawboning, as Dr. Mueller pointed out, and then there was made a 6-percent increase for the 1969-71 period. So, I am not going to defend United States Steel. They have got high-powered attorneys and they have high-powered officials that come in here and defend themselves.

But I say that this discussion here this morning should be for you gentlemen not to be just busting big business over the head. What you should do is to look at labor in the same light, and you should look at the Federal Government in its own light, like Senator Harris brought out where he says that sometimes maybe the Congress is not doing its job.

Senator Hart has said that many times during the 15 years of hearings we have had, and he has been here since 1959.

We have asked a lot of things about what Congress has passed. And some people raised the question the other day that we should repeal the Davis-Bacon Act because it is causing higher labor costs in construction, and Dr. Houthakker referred to it.

So, when you gentlemen start talking about that in one sentence and get off on this one area, you are only touching one leg of the tripod, and you should touch all three of the tripod, and, then, I think you will make a record in this meeting.

Senator HART. Dr. Houthakker.

Mr. HOUTHAKKER. On the question of who has the most power, I agree with what has just been said: that the power of big business is certainly there but it is not absolute. There is a great deal of diversity in our economy—fortunately—and I think the Federal Government should try to stimulate this diversity. I do not think that big business is, by any means, unanimous in its demands on the Government. Certainly, many firms, both large and small, are asking the Government for all sorts of favors, and the Government, in my opinion, has been far too ready to grant those favors. But there are also very often conflicts among business firms, and those, in a way, are our salvation.

I do want to follow up a little bit on steel, if I may, because this happens to be an industry where I had a lot of involvement when I was in the administration. There, I think, the Government has done certain things that are very adverse to the general interest. I am not referring now to the 1962 episode but something that happened more recently, namely, the negotiation of an international steel cartel which is, in fact, what was brought about in the last 4 years, starting in 1968 when the steel industry came to the Johnson administration and said they wanted a voluntary agreement. This, by itself, was a very unusual de-

vice. It was an undertaking by a group of Japanese steelmakers and a group of European steelmakers that they would not export more to the United States than a given amount, and it was in the form of a letter to the Secretary of State. The Secretary of State never acknowledged this letter but sent a copy to the House Ways and Means Committee, and they put it in the record. That is all it legally amounts to.

The steel industry in this country is formally not a party to it. However, by agreeing to this so-called voluntary agreement, the Federal Government really weakened competition in the steel industry, and steel was not a very competitive industry, to begin with, going back to the days of Judge Gary and the idea of friendly competition—"Go along and everything will be all right."

Now, this, I think, is the kind of action the Federal Government should abstain from, and there are many other actions in other industries, too. This, I think, is where Congress could have an important influence by questioning this action, but it was not questioned to my knowledge. On the contrary, the idea was, if there is no voluntary agreement, the steel industry will have to go to the Congress and obtain legislative quotas. I do not know if they could do that, but the threat has been there; therefore, before we talk about Federal chartering—and it may have some merit—we should first see what the Government is doing now to stimulate competition. And, incidentally, I fully agree with Senator Harris that the record of regulatory commissions is not such that we can really have much faith in a Federal agency that will evaluate the performance of individual corporations. What will happen is that in no time this agency will itself become dominated by the industry it is supposed to have oversight of. So, I would hope that the Federal Government's role is primarily one of stimulating competition and abstaining from actions that would impede competition, and, in general, being responsive to free entry, which is the most important guarantee of free competition.

Mr. CHUMBRIS. Would you be in favor of some of the suggestions about restructuring the Federal agencies according to the Ash report? Perhaps you gentlemen would like to discuss that point.

Mr. HOUTHAKKER. I have some familiarity with the Ash report. I do not really think the Ash report addresses this problem directly. The Ash report will, if it were enacted in the original form, have some benefit in not having agencies that see it as their own task to represent certain segments of private business. This is unfortunately the case right now. Agriculture, Commerce, and Interior are all examples.

I think in other respects the Ash report would be an advance, but I doubt very much that very much progress can be made in this direction. I think if there is sufficient alertness on the part of the Congress, and this subcommittee, of course, has had a long record of doing precisely that, then some of the worst things can be eliminated. But to expect the Federal Government will have effective control over individual firms, without stimulating competition is an illusion.

Senator HARRIS. Dr. Engler was raising some very interesting fundamental questions, and I thought that we might get back to that.

Senator HARR. Yes, let us. If you hang up targets or goals, how you get there is really what we are trying to address ourselves to.

Mr. ENGLER. Could I give one illustration, just to start? It relates to the question of technology. At what point—and I ask this in my prepared statement—can a body of citizens collectively have a voice in determining kinds of technological developments which would serve them? Historically, we have relied on the market and people's sense of where they can enter, as you said. Well, we know that in many cases no American boys are going to enter the market, because capital investment in some areas appears too great. Are we prepared in any way, socially, to say "Yes" and to say "No" to certain things. Take, for one example, the automobile which accounts for so much of the economy from the end of World War I onward. Until a few years ago we had no discussion and no capital investment in mass transit. It was all in private transit, heavily in automobiles, and the allied industries. In the fifties we launched the most massive public works program this society has ever had, outside of war, under the Eisenhower administration's National Highway Defense Act. We all know that story. What I am saying is that everyone is now sophisticated to know that the cities are choked. Maybe there ought to be alternative ways of having mass transit. In New York State there was a very complicated bond issue, which was voted down by the voters, wisely, and intuitively I think, not because anyone understood the facts.

It finally came out that among the major backers of the movement supporting this bond issue were some of the major oil companies. It was really a highway subsidy accompanied by the threat that if it did not pass subway fares would be almost doubled. And people did not know the facts ahead of time, but enough of them intuitively, for all kinds of crazy reasons, said "No." At what point are we prepared to say that first, if we really want mass transit, we want to encourage a technology to support mass transit; and second, we are going to have public say about the notion that we should celebrate as private freedom, the extraordinary capital investment in private transit.

Now, how you translate this politically is tough, but it is not impossible. In a whole host of ways the question becomes, Where do you want a technology which will support the values you now think are good?

Senator HARRIS. But my point is, would not every one of you ask, at what point are we willing to stop all of that subsidization of the automobile industry, which is probably the basic problem there is in this country, and encourage other forms of transportation instead?

Well, the answer is now, you know. We are prepared to do that now. I think everybody around the table is, but you then have to get at the concentration of political power that prevents that action. That is why we are talking about corporate chartering. And about breaking up these concentrations of power, and why we are talking about trying to get at the devices like tax-supported lobbying and advertising on public questions, and the subsidies which permeate the automobile industry and the oil companies which continue to give them the money to keep on getting the subsidies.

Now, don't you have to get at those things to do what you are saying? I think everybody surely agrees with your goal.

Mr. ENGLER. I think, to respond very quickly, no.

Mr. COHEN. I was going to add something else for you to respond to, and maybe you can respond to the whole thing at one time. You

were talking about getting back to fundamentals. You mentioned what we are going to do about housing, and what we are going to do about mass transit, and since we also get to the big problems, what about big government. If you accept the premise that a lot of us do that it is hard to draw distinctions between big government and big business. We are not talking about two separate entities, but a single entity, one reinforcing the other, then you are talking about basics.

Why don't we have better housing? Is it because we are so concerned about the aerospace industry and what they are able to do that we have to channel our resources in that area? Are we so concerned about the automobile industry that our main concern has to be what is good for them instead of channeling our money into mass transit?

Why has the Congress devoted its energies to things that basically are good for business in terms of tax laws, in terms of general kinds of subsidies for the merchant marine and every other aspect of big business, really, and it all has some form of Government subsidy. And I am not exaggerating there. But, maybe it is because we cannot look at our priorities as long as we have myopic vision, and the reason I would suggest we have myopic vision in terms of priorities is not because of people, but because the Government is responsive to the concentrated economic power rather than, you know, rather than the unorganized power of the others.

Mr. ENGLER. But, you see, I am not quarreling, as you know. You quote me a number of times in your book, and paraphrase me more times. I have been on the record for a long time as taking on corporate power.

Mr. COHEN. We give you credit in both cases.

Mr. ENGLER. I imagine, the third-line relations men of the automobile industry could answer this discussion by saying: "Why we are here to serve the public. The public votes for a new Ford in their lives, and what do we do, we translate that dream into a reality. We are a democratic institution." By our statistics, 9 to 10 million people a year, at least, translate their dreams into new car purchases, with the cooperation of their local, friendly bank.

The question that I am raising is not simply a matter of corporate power. It is also a matter of the options which are celebrated in this society. It seems to me that people who have access to media of communications and to public opinion ought to in some way take leadership. One way of leadership in relation to the issue of mass transit is to say what kind of a city you want, what kind of a nation you want.

If you believe in railroads, what kinds of programs will further their development? When Senator Proxmire gets through bottling the SST—and I honor him—and you talk about alternative planning for industrial conversion and jobs, there is a long silence. Such silence cannot be sustained if you really hope that now that the hard hats know, and everyone knows we have corporate power, that things will change. I think that this is innocent.

All you are really saying is, that the last people to know things are the people who are the teachers and the people who legislate. The people who live out their lives paying their bills know damn well that Con-Edison writes them monthly, that Bell Telephone thinks about them monthly. They have no doubts about that, and this sense of powerlessness goes way back.

The anti-big tradition is one of the oldest traditions. Forgive me, but it was not discovered by this committee. The populist movement in the 19th century and others before them and since them were aware of the curse of irresponsible private power.

Mr. COHEN. And we can go back to Thomas Jefferson and to Alexander Hamilton.

Mr. ENGLER. Of course. All I am asking is, at what point are people prepared to offer some alternative models of the kind of society they want. An easy illustration of this is the area of mass transit, which is not my definition of the kind of society I want.

The question is, how do you harness resources, public and private, in that direction, and also be willing to use your resources, public and private, to challenge the notion that it is a basic civil liberty of every individual to drive bumper to bumper?

Senator HARRIS. I think everybody, or almost everybody, is challenging that now. I do not understand what you are saying.

Mr. COHEN. The only way that you can challenge the point, and the only way that challenge is related or moved into action is when legislators and regulators react to what people are saying, and follow the kind of priorities people seem to be saying they want, and which must be articulated for them by the leaders. When those people that are the leaders, when the politicians and the people in Government are, in fact, bound and tied into a system where the big corporation is exalted and holds the prescription and the power, then it becomes very difficult for aspirations of the people to be translated into the kind of concrete things that all of us would like to see them translated into. That is really the only point.

Mr. ENGLER. I think I am the only one this morning who mentioned the international picture; that is, what is left out of all of these discussions is the fact that one base of this economy is the cold war. There are many interpretations of its origins and its consequences. There has been broad support or acquiescence, but certainly not unanimity. For example, a fair number of corporate leaders are not fans of the Vietnam war or of the cold war now, despite rhetoric to the contrary. A number of military and security leaders are obviously still playing out this game of the demon of communism, that we are going to bring freedom to people, even if we have to kill them. But what I am saying is that American capitalist power is built upon satisfying what it called the wants of the American people.

It comes out of the hides of much of the world. The Nation's largest industry, the oil industry, now has a new national public relations campaign employing full-page ads and costing millions of dollars. The slogan for this campaign is that we "use all we can get." It describes how the American people, 6 percent of the world's population, consume 35 percent of the world's energy resources. Then it describes how this international industry, roams the world to serve our needs and there is a picture of a model American family of three. Across a map of the United States is written: "205 million Americans on the move, and every little movement has a meaning all its own." You can just imagine the glee in the public relations office as they came up with this "poetic" touch.

But think of the implications for the world—6 percent of the people consuming 35 percent of the energy resources of the world. The Middle

East, with 70 percent of the known fuel oil, consumes less than 1 percent. If you want to know where the world is going to explode, if there are still options, it is going to be in settings like that, with figures like that.

What we are really saying is that to maintain the American way of life, regardless of economic distinction—black, white, poor, rich, in this country, most of the world is going to be servicing in some critical way the needs of these 205 million people who have 90 million cars now, and who are heading the goal of one internal combustion for every adult American.

The international dimension of this is extraordinary. When I am talking about alternative visions of the world, I am not talking about dividing up everything, and having everything equal. I am not talking simply about challenging corporations. I am really asking at what point are you prepared to ask for whom are the resources of the world to be allocated? And who is to decide?

Senator HARRIS. I am prepared to say that right now. That is the point, and I think that is what everybody said.

Mr. ENGLER. I did not hear it. Forgive me.

Senator HARRIS. I think it is given for this meeting today, but on the other hand here yesterday, we heard the President of the United States talking about a \$40 billion deficit and increased military spending at a time when the United States has the kind of unemployment we have got, the scandalously poor house delivery system, and so forth.

It is just incredible, but I do not think that the system operates the way it does accidentally. Now, that is what brings us here. This country is a very stable, ecological system, and the pressures and forces in our society that have brought us to this point, are damn powerful or we would not be at this point.

We can talk all day about stopping the automobile and about excessive consumption, and we should; but how are we going to change this very stable system that we live in—one that allows the President of the United States to talk about the kind of budget and priorities that he talked about yesterday, and allows that to continue? We have been brought to this point because of the political power which derives from the inordinate concentration of economic power of big business.

Being against bigness may be awfully old, but all the time while people have been giving that idea lip service, big business has been getting bigger in America, and it is bigger this year than last year, and the individual is less and less important. And you are not going to change that unless you are going to try to get at some of the reasons that brought all of that power into being.

Senator HART. I have one old notion that accompanies the notion that bigness is not bad and has to be watched more carefully than smallness, which is that where you have concentrations, there is perhaps the most sensitive area and should be regarded the most closely in terms of, among other things, its political muscle.

Now, most of us this morning have mentioned oil, the petroleum industry, and yet I think the truth is that the petroleum industry is not nearly as highly concentrated as other industries. What is there about the oil industry, if concentration is not the thing which

produces the muscle, what is it that gives the petroleum industry such a place of singular power?

Mr. ENGLER. I can suggest several things, briefly.

One, it represents to the ultimate something for nothing; that is, it represents—

Senator HART. What do you mean by that?

Mr. ENGLER. I will explain. Within a few years after oil was discovered in North Dakota, a populist State, with a strong National Farmers Union tradition, 85 percent of the land area of the sovereign State of North Dakota was under lease to the industry. This meant that each farmer—the same guy who was in the National Farmers Union, was looked upon by its critics as bringing socialism from the cradle to the grave—identified with the oil industry.

Why? Because the depletion allowance protected by the magistracy of the U.S. Congress does not go just to Jersey Standard. It goes to every farmer who, when he signs a lease with the oil companies, thinks that at least I am going to pay my feed bill, I am going to pay my tax bill. If oil is discovered, then I will have a one-eighth royalty. There are some 32 to 35, and I am off on the figure at the moment, States of the United States where oil and gas production is significant. Now, look at the voting record of the U.S. Congress, and find any Congressman or many from these 32 to 35 States who vote “no” on any issue that the oil and gas industry wants.

Secondly, I would say that this resource is the jugular of the industrial society. Seventy-five percent of the energy of the United States is oil and gas; 20 percent is coal, which is now coming under the control of the oil industry. Four percent is hydro, and all of the years I have watched Washington, I have always been fascinated and never quite understood why all of the political drama seemed to be over hydro and electric power; the fights over the Snake River Development, the TVA, and so on.

I can understand it in some ways, that oil and coal—

Mr. ROSS. The competition, public versus private.

Senator HARRIS. And I can tell you another thing about the oil industry; it is singularly hand-in-hand with Government. That is what we are talking about here and what Jerry Cohen said awhile ago, how more and more Government and business seem to be the same thing and, particularly, that is true in regard to the oil industry. You mentioned, for example, the depletion allowance. I think it's unfair.

And there are the oil import quotas, and the fact that the whole international apparatus of the Government often moves into foreign countries because of the interest of oil companies, as you said, in Peru, and what is going on in the Middle East, and so forth.

Now, that is exactly our problem. The Government and business in that instance are very close to being synonymous.

Mr. ENGLER. But why, Senator Harris? Why are they synonymous?

Mr. HOUTHAKKER. Mr. Chairman, perhaps I may add a little illustration because what you are saying is basically correct. During the cabinet task force study of oil imports in 1969, one day a delegation of oil-producing States came to the White House to present its case, and the head of this delegation happened to be the Governor of Illinois.

Illinois has some oil production in the southern part of the State, and so the Governor of Illinois presented the case for the oil-producing

States, and he did it pretty well. After it was over, one of the people there asked, "Is Illinois an oil-importing, or an oil-exporting State?" Of course, everybody knew the answer. Illinois imports far more oil than it exports, but nevertheless the Governor of Illinois felt it necessary to present a case which was really against the interests of the majority of its citizens.

What we see here is a tendency on the part of people who have not studied the matter very much to identify the public interest in an industry with the producer interests, not the consumer interests. The consumer interests, generally, are so diffused that you do not hear much about them.

Now, this also happened, I think, in this Congress and the administration. The fact is that the producers, generally speaking, have a well-defined goal. They want higher prices, exclusion of competition, and a number of other things. Consumer interests are much more diverse, and that is why they so rarely get the attention they need. The only thing we can do is to bring about a greater awareness of the importance of the industry to the consumer.

Mr. ENGLER. Senator Hart, could I add one point? You asked me why it is so powerful. Part of my answer relates to my point about alternative visions as to control and uses of this basic energy resources. American foreign policy and the industry have very often viewed oil in comparable terms. It is not simply a matter that the industry has captured the Federal Government.

I think I have documented to many people's satisfaction where it has done so. But there is also something else. It is something that Government and industry have shared—a perspective of what is national interest and what is national security. What you find is that the moment this basic resource is viewed as critical to national security, these two forces work hand-in-glove.

For example, the oil industry did not push to get into the Middle East at first. In many ways, it was the State Department which urged the conservative oil industry in the twenties, and before that, to get in there. And so, we fought for the "open door" policy. Once the oil industry had staked out its share of the Middle East with the Europeans, we slammed the door shut.

But what I am saying is that there was an identity of the interests of what is national security which almost completely ignored an extraordinary range of issues and sensitivities in the Middle East.

Mr. ROSS. What the citizens are asking is that they are sure that there have been some policies made in the energy field. A lot of them are made day-by-day, and gradually evolved. No policy is a policy. Sure, Government and business may share the same basic objective of the international oil companies but what the citizens are saying is, we want an opportunity to participate in these decisions. We want to know the alternatives that are available to us, as citizens. We want to know that these decisions are made in the open. We want to know who is visiting with whom. We want to know what the alternatives are, and we want to make sure that the alternatives are exposed so that we, as citizens, can have a chance, and that is what we are talking about. We are talking about the economic concentration opening doors, private doors, the back doors where decisions are made, and the people do not have any opportunity to question it.

The day our Nation decided to go for atomic power, and we put it in the hands of the AEC to promote and regulate—now, I am not for a moment questioning the advisability of that—but once having done that, the citizens really never have had—except only very, very recently have they had an opportunity to force this out into the open—an opportunity to question the wisdom of that.

The citizens with the environmental groups have done this almost accidentally. They are asking us to reexamine what is the future of the fossil fuel industry and what is the future of the atomic industry. They are asking, and they are beginning to appreciate the issues involved.

Now, why were not these questions raised openly? Why is the energy industry resisting an open scrutiny to establish an energy policy? Why have we not examined in detail whether national security does or does not determine the answer; that is, whether we should restrict imports of oil because of national security?

Why are we not getting at this, and I suspect, and I have been in regulation and I know why, because a number of these questions would get embarrassing. They raise problems with certain Congressmen, and with certain Senators. They raise problems with the Executive, and it is a hell of a lot easier to handle it privately—and in some cases, indecently.

Senator HART. Dr. Engler said, and correct me if I am not paraphrasing you correctly, that one reason that might account, even though it is not highly concentrated relative to other industries, we assume, and not to get into a debate, we assume that political power of the oil people is that there has been, there has evolved an assumption that their interests and national security interests are the same.

And the most recent example, I think, reflected that, and that is the exception from the antitrust laws given the majors to go over and negotiate with the oil exporting countries. This subcommittee made clear to the Department of Justice at the time that was granted that we intended, after the fact, to bring them in and find out what happened. But this reflects the feeling that national security was hung up here, and even I did not want to protest their going for fear that it would contribute to a furor and, by God, we would get shut off.

One thing that I did want to react to, secondly, perhaps until I got to the Congress. I assumed when we were talking about oil that we were talking about Oklahoma and Texas and maybe Louisiana. You remind us that there are 35 States, give or take some, that are producers. This is comparable to Senator Harris' very first example, Coca-Cola. And all of the hoopla of the lobby to get the territorial exclusivities, and the geographic distribution of economic powers, quite aside from the degree of concentration, is reflected in that, I think, in part.

The argument in support of this very limited, as it would be introduced, protection; namely, for food products, which you know perfectly well if the bill ever gets out on the floor, it will, the exception will attach not just to food producers but everything from the heaviest machinery to bubble gum. But the argument was given that unless you permit the small bottler franchisee the security of territorial exclusivity that half a dozen small bottlers in that State would be driven out of business because the large franchisee bottler in a large

city in an adjacent State would then be able to truck-deliver to the big buyer; namely, the supermarkets in that small State, driving the small bottlers out, because the small bottler could not survive on the "mom and pop" stores further out in the country.

And the end result would be the destruction of half a dozen small enterprises in that State, a drawing up of the supply available to the mom and pop stores and, therefore, the bill makes good sense. That is the way they promoted it.

Mr. CHUMBRIS. At this time, I would like to place in the record that the subcommittee held hearings on this similar proposed statute in 1966, January 21, 22, 23 and 27, on S. 2549. There were similar bills in the House of Representatives, and the substance of the testimony there bears out the illustration that you were just given, Mr. Chairman.

Mr. COHEN. There was for instance, a tobacco franchise—who had the franchise for all of the makers of cigars for something like 460,000 square miles in the West of Hawaii—who was very concerned about the transcontinental creditors that might come into his area unless he had his protection. It does work both ways.

Senator HART. I think the committee did not report legislation.

Mr. CHUMBRIS. At that time, Mr. Chairman, the law was that there was no violation of the antitrust laws.

Senator HART. Since then, the Schwinn case has come along, and now we are——

Mr. CHUMBRIS. The Schwinn case changed it, and after the Schwinn case, why this interest was renewed.

Mr. ROSS. In our concern about different methods, devising new institutions, and I am probably as guilty at trying to suggest new ones as anybody else, we ought not to forget that we do have many rules and regulations which, if adequately and properly enforced, and if we can prohibit undue amounts of political power from being exerted, may do a great deal toward solving some of our problems. And I would like to go back to what Professor Houthakker said about antitrust, and antitrust is a weapon, and it can be more effective than it has, at least in my opinion.

There are others, certain eminent Democratic economists who feel otherwise. But I think that it is a tragedy that industry, through its economic power, can make forestall attempts to enforce our antitrust laws by delay. I think it is a disaster to have larger merger cases drag on for year after year, and I mean this is not doing the public interest any good. This is not doing the citizen any good.

We have laws. We have an Antitrust Division. We need a new head, and let us get on with the show. We could do a lot with just what we have.

Senator HARRIS. At the very least, we could stop going in the wrong direction.

Mr. ROSS. Right.

Senator HARRIS. For example, we were talking about steel prices awhile ago, and I mentioned in my statement something about the whole wage-price management apparatus now in effect. It seems to me the Government ought to be intervening when the market does not work in the wage and price and related decisions, but it ought to try to limit when it would have to intervene by making the market work

where it can. And that was the purpose of several amendments which I and Senator Proxmire and several others tried to get attached to the Economic Stabilization Act when it was up.

But, take steel, for example. They have been raising unit prices all along to make up for lost volume, because they are powerful enough to do that. Right at the time when President Nixon was asking us to radically alter our economic management system, because somehow the market is not working, he overruled Mr. McLaren who wanted to oppose a very important steel merger. And now, of course, Mr. McLaren is out.

So, at the very least, I would think Government could refrain from doing bad things, and then, hopefully, we might begin to move in affirmative ways against these inordinate concentrations of power.

Mr. GREEN. But this raises the question of, how can you make the Government not do bad things, and this goes back to the question that Dr. Engler very eloquently asked of, how do we challenge this power that we have now all articulated? Both Professor Hauthakker and Mr. Ross said the consumer does not know enough, the citizen does not know enough, and we must inform him more. This, I think, is the crux of the answer.

Citizen action has often been very lax, and when we come to the subject of economic concentration or political power with the premise of the political system, that there are a lot of different factions and groups that compete in the political arena, and the truth will emerge as more a theory than fact, because on issues of corporate interests and powers they know what it is, how much the issue meant to them, and the consumer cannot know. And out of the imbalance came a policy of favoritism for business.

Now, one should not be too pessimistic about that. Take the SST example, and take your tripod. The big unions, big business, and big government, they are allied in favor of the SST. It lost. That was one example where citizen power, and initiative and interest actually succeeded on an issue of intimate concern to large corporations. The issue underlying all that we are saying, I think, is how do you develop a constituency which is interested in a topic.

Without them, we are leaders without followers, we are Pied Pipers without followers, unless you have that as a foundation, and when you go into hearings or speak to a Senator, or urge a de-concentration bill, or a Federal chartering act, you are just talking to yourself. That problem of translating corporate power, and how, too, that affects consumers' pocketbooks is very, very difficult.

For example, you can try and publicize the fact, as hearings have recently done, that the oil import quota costs, according to all studies, including one done by the President—President Nixon—\$5 billion to \$8 billion a year. This means \$100 for a family in New York for higher heating bills and auto bills. This means 5 cents more a gallon for gasoline, and that kind of an intimate understanding you would hope to get the consumer to know.

Then, without that understanding, I think corporate power will win by default.

Mr. COHEN. I was much more pessimistic than you are. I was not a year ago, but I am now. You mention the SST. You get a Charlie Ross to lead or head the FCC for a couple of years and you are holding your own. Then industry just sits back and waits, and sure enough, you

know, things happen, and he leaves, and other people come in and they go on with what they have been doing in the past.

You can have a dramatic issue like the SST where you may be able to mobilize opinion, but for every SST there are literally thousands of other issues, probably just as important or more important to the public pocketbook, that the public never hears about.

You have a situation with the newspapers, for instance. We know how highly concentrated the newspaper industry is, having gone through the so-called failing newspaper bill, first, and then the Newspaper Preservation Act, and then you get outside of Washington and you really realize how little information people do get in this country. And it seems to me that the only real hope is a champion on a white horse.

I am going back to almost a Joan of Arc period. There are not many people that like to get hurt that way, but unless this becomes a campaign issue, and the presidential candidates pick this up as an issue so that the candidates are forced to talk about it, and the newspapers are forced to cover it, then I think we are absolutely lost. Until we have a candidate who is able to make this a campaign issue and talk to the people about it which, you know, I am not going to put anyone down yet, but it has not as yet surfaced with any of the ones left in the race, but this is the way you have to get the thing across. And I think it is the only way.

Senator HART. Let me "put Senator Harris on notice." I do not want to interrupt your responding, Mr. Green, but if I read your announcement correctly, that was the horse you were mounting. While you did not get burned, you sure did not get out of the stable. I would like to get your reaction, but—yes, go ahead.

Senator HARRIS. I thought we might take up a little collection here.

Mr. GREEN. Jerry, we can see whether or not candidates will raise it. Senator Harris has stimulated a debate, and perhaps candidates will pick it up. Likewise, in his role as one citizen out of 205 million, Ralph Nader sent a letter to all announced candidates, except President Nixon, who said that he would not respond to political debating, and asked them to respond to a series of questions on corporate power and economic concentration, and asked what their views were on it, because historically that is a question candidates were simply omitting from their campaign statements.

And we intend to compile the answers and make it available to any interested citizen. I will not say whether I am optimistic or pessimistic about whether they will respond. But I should hope that elections and campaign issues are not only shaped by candidates or only shaped by the press, but are also stimulated and shaped by citizen initiatives asking questions of concern to them that are often omitted.

Mr. COHEN. The point is, you cannot take too many issues at one time to the country. We did something about racism in this country because that became the one pervading issue, and it just simply would not go away and could not be ignored.

Then we got into ecology. We have done something about ecology because it was the pervasive issue that could not be ignored. And all I am suggesting is that this country, in terms of citizen initiative and citizen approach, can handle only one major issue at a time and be successful. And what I am suggesting is that the next major issue in this country has to do with undue concentration of power until people

recognize that as the issue, then we cannot do anything on that. And I think for that to become the big issue, it has to be one that politicians are talking about and it becomes important in campaigns, you know.

I would like to say, you know, that Ralph Nader has been effective for one reason—and I mean aside from his brilliant staff and all of the rest of it. But, you know, newspaper people will print what he says, and this makes him effective. But, you know, there are not very many other people that they will do the same thing to. Ralph Nader. I think, is the unique phenomenon in this country, and there are few others who have reached that place.

We basically have to depend upon people running for offices. I have to throw in as a footnote that since Mr. Hart has asked why the oil companies, even though they are not concentrated, have this power, and it goes back to the antitrust laws. And I think among the first top 20 corporations in this country that about six or seven, or the six top are major oil companies that control the production of the crude of the top 200 oil companies, the top 200 corporations, and I think there are about 13 or 14, and the rest of the 18 or 19 petroleum companies we have left in the country, but there are six or seven only that control the crude and the rest are dependent upon them.

They have a long history of cartelization. They have powerful groups; the American Petroleum Institute, for example, which is well-financed and works in every State in the Union with public relations and everything else. That reflects a common front for these six or seven as if, in fact, they were highly concentrated as one or two, three oil companies. And, finally, the oil companies that we do have are not only horizontally integrated into other fuels, but one of the real damages is the vertical integration where they control production, they control refining, and they control distribution, which we do not take into consideration when we look at the concentration factors.

And if the antitrust authority were then to move against that vertical integration. I think you would find a loss, you know, in terms of the power the oil companies now have.

MR. ENGLER. Senator Hart, on this point let me make a couple of quick points in response to the last few statements. Of course, the SST was a useful victory. But when Senator Harris, tongue in cheek, paused for money-raising, I wonder who in this room is going to raise money for the unemployed from Boeing Aircraft and Lockheed; that is, who is going to celebrate the victory if people get thrown out of work?

It is interesting that some of the more militant labor leaders are beginning to ask second questions about the environmental movement. If you are going to get tough on environmental concerns, and it means we are going to lose our jobs, we want other questions asked. What I am saying is that you cannot beat something with nothing, certainly, leadership is important, but leadership is important when it represents an alternative philosophy and also a means of getting from here to there.

In the case of oil, the U.S. Government sits on top of one of the greatest supplies of oil that the world knows, shale oil, most of which is in Federal hands. I proposed at a hearing of your committee several years ago that the U.S. Government, instead of letting the private industry develop this shale oil (and that is a long history which

I tried to document years ago), that here would be a strong case for yardstick public development.

There is a tremendous fight over the sea bed. All of the nations and the forces representing or defining national interests within these nations are fighting for control of this sea bed. The oil industry is engaged in a campaign right now within the White House, the Congress, the bureaucracy, and the U.N. to redefine our Federal position, and even to undercut the State Department position on defining the limit of the Continental Shelf, where the slope ends and where it begins, where it should be in national, sovereign hands, and where it should be in international hands.

And, of course, if it stays in national, sovereign hands, the oil industry is betting that they will control it. That is, that they will soon place that resource within their overall control pattern of determining when a resource is made available to the citizenry, so as to keep up their pricing power and, as Mr. Green said, their \$5 billion-plus subsidy.

In Atlanta, where the Congress is still involved in the issue, where the whites are panting at the thought that there is oil there, and were moving very fast to lease the oil, there are some very interesting developments.

One-quarter of the Alaskan population is Indian, Eskimo, and Aleut, and militant native leaders there said, hey, lay off. They have a very definite notion that they have land that is neither Federal or State, that it is theirs. Historically, they say, we have hunted and roamed; this is our land, and we do not buy your theories about private ownership, and you cannot decide how to use this oil before you take into consideration native interests.

Senator Harris' powerful Coca-Cola illustration has an added dimension in Latin America. You will find countries where the people do not have much food. Or take our own Puerto Rico, where they still raise almost none of their own foodstuff. You see at almost any hut in Puerto Rico sugar cane right up to the door, and they import most of their food. Go to the crossroad, to what is the equivalent of the general store, and there you see case after case of Coca-Cola.

What does it mean? It means a private corporate interest, American-controlled, taxes every citizen by taking what he has to give, which is literally pennies. Now, I am not trying to argue that we should be commissars, and teach the people to drink something better. And you can argue that it is a free choice for the people. But I would like you to know what it does in terms of distorting the chances of developing nations to use their major resources to develop an alternative base for society.

Coca-Cola takes a penny out of each household, which only has pennies, on each bottle, and takes these pennies out of Puerto Rico.

When I said "something for nothing," what I meant was such things as the grand deception in our tax laws which would lead one to believe that the oil people put this oil into the ground. I think that is a confusion which ought to be nailed down fast. Most of that great wealth was found there and was utilized by society.

The wealth derives from the ability to locate and control oil. The industry did not put the oil there, yet our depletion allowance tax privilege, for example, is literally premised on a notion that they are

depleting a capital investment. In Latin America oil companies talk about their investment, and President Nixon rushes to assure people that you cannot nationalize loyal American investments. The fact is that there is relatively little investment abroad in the producing nations. What there is, is expectation of extraordinary profits.

That is, the oil companies put only a few billion dollars into Latin America, only a few billion dollars into the Middle East. Most of the industry investment there is the resources of those people which have been transposed under American and Western corporate interests. We are not protecting their investment there, we are protecting their expectation to continue to drain from these parts of the world one of the few elements that those producing nations have which might give them leverage for a different kind of society.

Senator HART. Mr. Ross.

Mr. Ross. Let me just respond very, very briefly on two of your points, on one or two which I think Dr. Engler says are concrete examples.

First of all, I was going to ask Senator Harris, and I did not dare ask our host, Senator Hart, but since Senator Harris exposes himself as a member of the panel, I was going to ask him the following question: is the U.S. Senate ready and willing to accept the consequences of competition, and why don't they devise some method or procedures by which the people, such as Dr. Engler, who referred to the SST, where you do not want that to continue, it seems to me you people have to face up to this.

If you really want competition, somebody is going to get hurt and people will get hurt if you have competition, and you have to provide that there is some socially responsible way, if in your judgment it is required, of taking care of the after effects of that.

Second, as far as the consequences of some of these decisions on minority groups, former Governor Hoff, and Chuck Fishman sponsored a conference with the Sierra Club, and deliberately structured the conference to create a dialog. We wanted to create a dialog between the Sierra Club, the environmentalists generally, and others in industry.

We wanted to structure it specifically as to consequences of these environmental decisions on minority groups. Julius Hobson, I am very pleased to say, came up, and Prof Mark Roberts was there and gave an eloquent statement from a traditional point, and the Sierra Club then could see what the consequences of some of these decisions would be if you went too far.

We tried to get the industry, I personally made a number of calls throughout the industry, principally in the power industry, but also in the oil industry because I felt they should be a party to such a dialogue. If the Sierra Club was willing to allow a conference to be set up in which they had absolutely no control, they had no idea except that there was a general list of speakers, and they thought maybe we had done them wrong, it would seem to me that the electric industry would have cooperated also.

It would seem to me that they would expose their rationale and their reasons in a public dialog so the citizens could participate and could see the ground for various positions. But, it is my impression that for the most part, and we had a few exceptions and, I congratulated

them at the time, and I would do so again today, but almost without exception the industry boycotted us.

Now, this was the trouble you have. This is the economic power that reaches into the political sphere and prevents open decisionmaking and dialog. They do not want to be criticized. They were not sure that they could control the conference, and these are the things I think we have to look into.

Now, my last and concluding point is that the Office of Science and Technology had a seminar in the fall of 1970, in which I participated, and now, hopefully, FRFF is going to publish the book sometime this summer, about a year and a half late, but some suggestions as to development of shale, and the development of offshore resources. I mean in the Outer Continental Shelf and elsewhere, I think the position stated by Dr. Engler is much in accord with the position I advanced at that seminar.

But it bothers me here, that, and it is a year and a half late in being generally available.

Senator HART. There is one point——

Senator HARRIS. Could I just respond to that, first of all?

Senator HART. Yes.

Senator HARRIS. The question is whether Congress is ready for competition. I think the problem is that they, like most people in America, mistakenly believe we already have it; that is one of our basic problems. Everybody talks about the free enterprise system but, obviously, we do not have that. You and I know it. Now we are getting all of this socialism from the right, because the corporations like it. If you are in control of the Federal Government, it is not so bad for the Government to control you. And it is a lot simpler than competing with one another.

It is really amazing how professional and traditional free enterprisers have abandoned the free enterprise concept and are found in Congress, particularly, urging wage and price controls.

Mr. HOUTHAKKER. Mr. Chairman, in this connection, I would like to mention again the Regulatory Modernization Act. This bill is now before the Congress and is going to have a very hard time, I am sure, because the American Trucking Association is all out against it. They have started newspaper campaigns and lobbying, and they are very effective at it.

This is one case where competition is needed. I think everybody who is in the industry knows the ICC is not doing an adequate job, and nevertheless it would be very interesting to see how much power there will be on the side of competition.

Senator HARRIS. May I say one last thing, Mr. Chairman, something to respond to something Jerry said awhile ago about the candidates?

Senator HART. That was one of two things I think that we ought to be sure we get into the record.

Mr. COHEN. May I say, before we get to it, are we going to get to the labor unions?

Senator HART. Yes; and that is the second. The two things, the candidacy, what the connotations are, and, second, labor unions.

Senator HARRIS. I would rather generalize about it. Mr. Ross raised the question awhile ago about the alienation of people from the

political process, and I believe that it is quite accurate to say that most Americans do not believe that the political process is going to deliver on their legitimate complaints.

That puts a tremendous burden on those of us who are interested in the political process and trying to make it work. I think the reason people believe that is that politicians and political writers are primarily dealing with things the way they once were, and not with the way things are now.

Politicians are primarily talking about adding to New Deal programs and tinkering here and there, and not bringing about the fundamental changes that people are entitled to have. We must think of issues in terms of economic class, talk about redistribution of income and power, and in the process of doing that, launch upon a real discussion of what is really on people's minds.

Most politicians are not talking about what is on people's minds. Ralph Nader is, as I have said before, I think that politicians will have to, and I hope that process will begin in 1972. Otherwise they are going to increasingly see people's eyes glaze over when they talk about adding a little more housing money, or doubling up on Neighborhood Youth Corps or things like that. Those things are important, too, but people by and large know that that is not really going to change anything. I think politicians will finally get a response when they talk about how people are being gouged by utility company rates, or how something ought to be done about shoddy telephone service and overcharging. When they get that response, I believe that you are going to begin to see some change in what the politicians talk about.

I hope that may be so, and I think these kinds of hearings can be helpful. We are going to have a people's state of the Union message this coming Tuesday morning right in this room to talk about what is on people's minds, instead of really scandalous things like raising the military budget while the other needs go unmet.

People know that is not responsive to what they are entitled to, they know they have legitimate complaints. That is why there is all of this alienation, it seems to me.

Senator HART. Well, let us assume you are right, the people are convinced, and most people are convinced, that the Government is not responsive and tend to believe that it cannot be made responsive. Yet consider the response to a political voice charging the things you have described are wrong, the things that people think are wrong. You are an effective speaker, and you did this in the very recent past, and we all know that unless you own newspaper chains and television systems to show this, not many people will hear you, even if you speak three times a day.

Now, what makes you think that, or how realistic is it to assume that anybody, even if he wants to, will be able to field that kind of campaign, given the capital investment you have to put into the campaign?

Senator HARRIS. Well, first of all, I am confident that the problems are there, and that they must be attacked. If I am right about that, and if people are decent enough and smart enough to govern themselves, then they are going to respond if they ever get the message.

Now, the basic problem, you said, is how can they get the message?

First of all, it seems more and more that a person must be rich, or a friend of the rich, to get his message to the people. But in order to get the money to get across his message, he may have to alter that message some before it gets there. Well, there is some hope——

Senator HART. I am putting it the other way: How do you get the money to get the message?

Senator HARRIS. First of all, we ought not to require that much money for political campaigns. We ought to try to do something on this, and we have been trying to do something. Second, the press is going to have to begin to awaken to the salability of a message which discusses problems people care about. The audience is there. People are increasingly turned off by the same old sort of New Deal talk.

Now, this kind of press treatment has not happened yet, and this is a real problem. For example, a guy was talking to me the other day who writes for a major newspaper, and he said, I used to read the Congressional Record regularly, and I would read those speeches that Wayne Morse and others were making against the war in Vietnam and I thought they were exactly on target, yet nobody was printing them. And I would say to my editors, why aren't we covering what Morse is saying, and my editor invariably responded that, well, nobody pays any attention to what those fellows say.

So, you know, I think the political writers as well as politicians are still, you know, a little bit behind the times. There is something awfully outdated about the political message which our mass media carry, as Fred Dutton and others have recently pointed out.

And we are also behind the times because the press is still reporting, basically, nonevents. It is reporting announcements, things like that, that are really nonevents and that have little to do with critical issues. I think what Mark Green and Ralph Nader are doing now is important to the degree that the consumer and other kinds of citizen groups can make candidates talk about real issues. We are going to speed the process of change, but change has got to come anyway. Otherwise, it seems to me you are headed for a radically different kind of government than we have ever envisioned we were going to have.

Mr. ENGLER. Again, Senator Harris, I like what you say, and yet what I look for is what is new beyond the call for something new. Most of your earlier illustrations, many of Ralph Nader's battles, are focusing upon people's lives as consumers. I am not quarreling with that function and focus. But I do not think the fundamental purpose or potential of men is as a consumer.

Obviously, talking antimaterial is a luxury. It is no coincidence that militant leaders are often very skeptical of much of the antimaterial talk that comes from relatively comfortable people: just at the historical moment when masses of people are saying, we have nothing, they are being told that color television is not all that it is cracked up to be. They want access to goods, services, and rights.

We have taken an extraordinary technological innovation, television, and literally abdicated it to the deodorant sellers and their equivalent. Again, you think of all of the things that the mass media could be to this society, and to all of the different societies in the world, and suddenly you realize that we are developing a world network of communications which is basically responsive, and in many

countries, not just the United States, to commercialization and the consumer focus of America and the entire corporate system. We have to look for a different perspective.

I can understand Mr. George Meany being angry at Mr. Nixon, and not just on the economic freezes. At the stage of the cold-war years when Nixon is about to go to Russia and China, Mr. Meany appears to be among the last of the unreconstructed cold warriors. It is pretty hard to have faith any more.

When you talk about the power of labor, I want to know more about your criteria. In the area of foreign policy, does organized labor offer any promises or approaches that challenge the directions of the society?

What I have tried to say from the start is that we have thoroughly distorted the unprecedented resource capacity of a people by accepting two major objectives for our efforts. One is to organize for warfare, and that we have done through much of the lifetime of many in this room.

And, second, we have mobilized, as I said in my opening paragraphs, to produce whatever is profitable, while teaching people to consume whatever is produced. As Thorstein Veblen once wrote, "Invention is the mother of necessity." We have mobilized an extraordinary set of resources to train people to want what we produce. It seems to me somebody someplace has to ask, are there alternative qualities and goals of life to be sought.

I will not preach against consumerism and materialism to a hungry man. I could not think of anything cheaper. But, for those elements of the society which are relatively well fed, as important as it is to deal with the exportation of Coca-Cola, with Bell Telephone, with the oil and gas industry, and the racketeering elevated into fancy principles, I still do not think that is the heart of the problem at all.

What follows if oil and gas goes down 5 cents a gallon, if Coke sells for 7 cents starting next week, and if each of these things happens? What will really—

Senator HARRIS. We will begin to chip away at the political power that keeps the things the way they are. I might say something further. I may be missing some of the nuances of what you say, but it seems to me everything you say is a given, and it seems to me neither new nor controversial—anything you say.

Mr. COHEN. Far be it from me to refer to anyone's analysis as simplistic—and this is something that I haven't found as the easiest thing to handle in listening to a profound statement such as yours, and yet refer to it as oversimplistic, and it may sound rude, or crude, or impolite, but you look at the two major developments of this country in the last 20 or 30 years—namely, the advances we have made in the race area, and the advances we have made in the ecology area—and these were not things that were keyed to consumerism. These are things, I think, that are keyed to something a little deeper in the nature of man.

And you consider the time and effort this country has spent on these two issues in the last 10, 15, or 20 years, and I think it is a little bit of an understatement to suggest that all we are concerned about is, from a good point of view, is the consumerism and materialistic things.

Mr. ENGLER. It is not all. The race subject needs a lot more examination. But I would like to see how sitting in the U.S. Congress you can make a statement on how we have resolved the race question. As for the environmental question, that is still largely a landscaping operation.

Senator HART. Wait a minute. I am not an economist, but I do read on this. I do not think Mr. Cohen fairly should be characterized as to suggesting anybody is claiming to be solving the race question, but you go into any Southern city and ask if things have not improved as a result of congressional action giving them the vote, and that is all he was suggesting.

It was not consumer preoccupation.

Senator HARRIS. It is a redistribution of power that is having some impact.

Mr. ENGLER. Well, I think that what we need fundamentally, as the counsel asked for earlier, is a very good definition of what one means by power. Of course I agree that there has been change in hopeful directions in some areas. I was talking about two central thrusts, and not the only ones. There are obviously many things that are important that we ought to watch and cheer on.

This is one of the problems. There is an extraordinary number of good battles taking place today where the battlers feel terribly lonely and isolated. One of the things you can do is really cheer on such people, letting them know others care and that they are not alone and not nuts. But, what I am saying is, when you are talking about power, you are asking where, how, and what are the underlying assumptions and forum which shape policy in the society.

Mr. ROSS. But, you know, this is more than just consumerism. This is a question of independence. It is a question of freedom of the individual, and the individual who may be deprived of food, shelter, et cetera. If he really thought that he was independent, and his decisions were being made and reflected his wishes, I think he would see to it that some of the social problems were corrected pretty damn fast. But what he is saying is, and the citizen is saying, I am not independent. I am not free, and my representatives are not free either.

Mr. CHUMBRIS. I think we ought to be a little generous with Dr. Engler and have him equate consumerism with the rights and privileges of the ordinary person. I think that is what you are probably alluding to there, because sometimes it is difficult to differentiate the role of a consumer and a taxpayer, because so many times they coincide, and there are times when the role of a taxpayer might be affected by him also moving into consumerism, but I think you were really talking about the people themselves as well as the consumer.

Mr. ENGLER. If you project into the future, I can conceive as one possibility, a society when ordinary people are well fed, where they are good uses of technology, people are treated equally, and even where formal civil liberties are more or less protected. But no one would really be free. I think there are several possible models that we ought to worry about.

You can so harness the resources of the world so that people will literally be satisfied at one level and be totally controlled at another more profound level. Built into people are the standards and pres-

tures for viewing themselves primarily as consumers. The alternative goal I have in mind is the development of morally autonomous people who wrestle within themselves over their political, economic, social, moral and aesthetic choices. The central tendencies of this society are not in that direction. Competition in steel, or competition between steel and aluminum (and, thank goodness, Mr. Galbraith has long since abandoned that nonsense) does not reflect differences in purposes or even power. The areas of agreement among corporations are far more important than what they divide on: namely, the notion of what comes first in the society, what government is for, what people are for.

Senator HART. Mr. Green.

Mr. GREEN. If I could say, this conversation is too cosmic and vague for my needs. It kind of shows what Thorstein Veblen did not say—*The Leisure of the Theory Class*. We can sit around and hypothesize about goals, and means, and ends, and keep juggling them. Perhaps it is my lawyer instinct, but I like to build a building brick by brick.

To the extent that utility rates would go down, gas bills would go down, and a person with an income of \$4,000 would pay a lesser percentage for food. You say, "Well, would that really cure everything?" Of course not, but it sure will enhance his income and money's worth 10, 20 percent, and will make that person to that percent, that much more a participant in our society.

A decentralization bill and a Federal chartering bill will not cure the common cold, and will not automatically produce the necessary housing in this country. I think it is a step. We also can discuss substantively each of these issues throughout, health, housing, the cold war, and I agree to an extent that they are interrelated, but just by throwing them out and then saying, what is the ultimate ends and means and goals, without trying to get more specific about how to attain them, it does not really advance, I think, the conversation very much.

It kind of undermines any singular success you could achieve. For example, there is the SST, and that is a very big and famous case, but there is the defeat also of the Scott amendments to the patent laws, which in my view was inflationary and raised prices; and the defeat of the El Paso legislation trying to undo four Supreme Court decisions—

Senator HART. And keep an eye on the Scott amendments, too.

Mr. GREEN. I intend to.

Senator HART. We won, but we have not finally won.

Mr. GREEN. I agree.

These are less spectacular than the cold war, but I think that they reduce the poverty of some consumers whose money's worth is not what it was due to inflation and corporate power. It does not successfully solve all problems.

Mr. ENGLER. Of course, you have to work painfully and build brick by brick. But have you ever seen a house without a design first, or some notion of what you want? Not necessarily a blueprint which pushes each human being into a place, but some notion of direction is essential.

The people whom I can admire as successful political people are those who combine two qualities. They have some sense of the long pull, of roughly what they are after as an ideal. And then, of course,

they have to live in the day-to-day world, too, and test each advance, each proposal, each fight, in terms whether it supports the longer view. Not as a totalitarian or inflexible control, but as a guiding philosophy of what might be.

Otherwise, you will find yourself consumed with every battle, cheering on each victory, going on to tomorrow's. I am not arguing that you are never going to solve the problem, but I think there still can be alternative premises that people can fight for. I certainly agree, Mr. Green, you have to deal with the specifics. For example we still have not had a specific discussion of the place the cold war has in our economy. How do we go about challenging the fact that so much of the resources and intelligence of this society is premised on an assumption which I think is highly dubious, let alone corrosive.

Senator HARRIS. I agree with you again.

Mr. ENGLER. And when you vote in the Congress, do you vote against military appropriation?

Senator HART. Some people do; yes.

Mr. ENGLER. This is part of the fight.

Senator HART. This is not really an appropriate forum to ask the question. But it is not inappropriate either. Why do you vote this way or why do you vote the other way—is it because of some long-term understanding of the flow of history, and an awareness of which side of the bank you ought to try to get us on, or is it in response to something more direct that we are talking about around here?

Now, it is a little tougher to analyze the motives and tell somebody to vote for or against an amendment on defense spending. But, basic to our discussion here this morning is why do you, when the roll call is called, vote one way or another? Is it the preconditions or an absence of some clear understanding of what our eventual goal should be? Would the possession of that awareness permit one to vote against the economic interest short-term of his State?

Who voices the interests? Why do you listen to one and not another? That is part of what we are fussing about. To turn to one of those interest groups, which I think Dr. Houthakker indicated was more responsible for the need for phase 2 than anything else, and that is labor, you have indicated pretty clearly that, I think, that large industry does exert a political influence on those of us and those executive and independent agency decisions. Senator Harris has said so, and Mr. Chumbris says, who has got the most muscle, big government, big labor, or big business.

Let us reduce it to who has the more muscle, the big business or the big labor. You might want to indicate your own feelings on it.

Mr. HOUTHAKKER. Well, Mr. Chairman, I do not think one can determine who has more power in a political system. With all these different influences interacting with each other, you cannot disentangle them and find who has the more to say. I certainly am not for a moment denying that big business has influence on the Government. I think labor also has a lot of relative influence.

What I did say was that the subject of our meeting today is controls and competition, and I made the point that if there was one thing which lead the Government against its own convictions to adopt a system of controls, it was the fact that wages in the U.S. economy are no longer reacting to economic policies as they did as recently as

10 years ago. Now, there is an observation which I think would be, by itself, hard to refute. I say this in part, also, because the response of business to wage increases has not really changed. Their profits have not gone up: they have gone down.

So one cannot say that the present explanation is primarily due to an increase in corporate power. There may be an increase in corporate power all right, but it does not show up in the price-wage behavior of the American economy. What has happened is that wages have gone up essentially in those areas where unions are strong, and despite a certain amount of unemployment. This is, to my mind, the main reason why any reform of the legal structure has to address the problems of the labor unions.

And may I also add that the labor laws which we have now do not really respond to present circumstances at all. They are responsive to the 1930's, not to the 1970's.

Senator HART. Mr. Cohen.

Mr. COHEN. Well, first I want to preface this by saying that I am not here to defend the labor unions. Having said that, I will now proceed to defend the labor unions.

In the first place——

Senator HART. Well, I was distracted for a moment, and I apologize. Perhaps you made some comment about it and, if not, I hope you would include in this point the specific suggestion of the antitrust laws being amended to include labor unions. I do not know whether you suggest that or not.

Mr. COHEN. That was suggested in his original statement.

Senator HART. Let me make clear that labor unions are subject to the existing antitrust laws with respect to certain activities.

Mr. COHEN. This is the basic point, that labor unions are, with regard to most of their activities, subject to the antitrust laws. There have been a number of suits where labor unions have lost, and I think the coal miners' suits, which I think were in Tennessee where unions had gotten together with companies and agreed that wherever there was a wage settlement that that would be imposed on other companies, this sort of thing is definitely a violation of the antitrust laws and, as a matter of fact, I have a case going right now in Detroit.

Mr. CHUMBRIS. But you would agree in those cases that the Supreme Court said it was a specific violation where the labor unions were not acting as labor unions but as a party to a contract which the Court held to be outside of the exempt.

Mr. COHEN. One question, the one aspect of the labor procedure, was exempt from the labor laws, and that was collective bargaining. That is not in the antitrust laws and it seems to me that that has got to be so basic. If you believe that all in the action by workers, and I think that fight has been over for 30 or 40 years, and it is just like saying that the board of directors of a corporation cannot get together and decide what way the corporation is going to go. They have to be able to get together to make the corporation work.

If labor is going to have any voice at all in their own destiny, certainly they have to be able to get together.

Now, the problem, I think what has happened with the labor unions is that as they have gotten stronger and stronger, they have more and more tended to identify with the companies that they are dealing with.

For instance, textile quotas, steel quotas, investigation of A.T. & T. These are the kinds of issues where both labor unions and companies have been on the same side of the fence. On a lot of these issues, these economic issues, they have been on the same side of the fence.

Now, where the labor unions have gone in and gotten higher wages, there have been a couple of studies, and the former head of the FTC had an interesting piece in his book about it in terms of the kinds of industries where labor unions have been more successful, and they have been those in the administered price industry where the company they are dealing with knows that they are going to be able to pass it on, and the union knows that they are going to be able to pass it on.

So, they go through the charade and fight for awhile, but everybody knows pretty well where they are going to come out in the end. And even before the end, they come out with—because of their anticipated wage increase, we are going to raise prices by so much. It is a cost-plus thing and they both benefit, the wage earner, the labor union person gets higher wages, and at the same time there is a plus factor put on in terms of the return to the company. At least, initially.

It does not always work out that way, but certainly the case has been made for that in the steel industry, where it, in terms of the cost of production, where workers were raised, and then an amount over that is almost twice as much, and the amount of revenue that will be brought in by the price hike, so you have got that kind of thing working.

But, forgetting that for a minute, you start out with the basic premise. Last year the figures I got on actual disposable income of laborers, the amount of money that he takes home in his envelope is something like 35 cents a week more than he took home 10 or 15 years ago.

So, what has the labor union been doing? From 1966—1960 to 1966, they were basically chasing corporate profits. For these years, they were really going, and the labor unions figures, you know, with 18-, or 19-, or 20- percent return to equity, they were entitled to a piece of that action. From 1966 on, they were chasing inflated prices for their members, but they have also been able to rationalize their position in terms of either inflated prices, always, or inflated profits, and their own economists have gone to great lengths to do this.

So the question is, you know, what comes first? If we cannot control inflation without breaking up the bigger corporations, then we have this endless circle where prices keep going up, and labor unions keep trying to chase them.

So, it seems to me, if we are really concerned about this problem, we have to deal with the first problems first. As business has grown, labor unions have grown. As business has been conglomerate the labor unions have said that we have got to get conglomerate.

But you also had a "Follow The Leader" approach, and the labor unions have been following the lead of big corporations. So, in order to treat first things first, it seems to me the first thing you have to do is break up the large corporations. Then if you still have problems with labor unions coming in and saying, we do not care if inflation is not going higher. We cannot be concerned. We do not care if you have problems; we still want more money, there is still a very simple solution, and that is compulsory arbitration.

It is so much simpler than what you have to do in dealing with a huge corporation. These are complex kinds of things, but Congress has precedence for passing laws where they are necessary that require that you must bargain with impartial arbitrators, and the whole basis of compulsory arbitration is that it is available. It is my guess that if labor unions were to really push higher than inflation could justify, or higher than profits could justify, that you would find an awful lot of willing Congressmen and Senators, despite the power labor unions are supposed to have, that would be willing to go to the arbitration route because, face it—the support you get from labor unions is not so much money, and I think Senator Long is a real expert on this, and he said on the floor in a speech that 95 percent of political contributions to campaigns are from business. Where you get help from unions is out in the precincts.

MR. HOUTHAKKER. May I make one short point, and I know Professor Ross wants to state something, too.

I think in the cases where Congress has had to involve itself, the effect has not been what Mr. Cohen maintains. For instance, last year in the railroad case Congress had an occasion to legislate a wage settlement. The settlements made by Congress have generally been highly inflationary, and I think they have increased the power of the union.

They have not affected the power of the railroads, certainly, because the railroads thought they could pass on the price increases, though in many cases it turned out they could not.

I would say that compulsory arbitration does not strike me as being a way out at all.

MR. ROSS. At the risk, and I have been trying to decide whether I should resurrect this old incident, but since most people do not realize that I was involved in the construction business for 4 years in the Middle West over 15 years ago, and for an old student of antitrust, I would bring up an old case called Derby Plastering Co., which involved an appeal by the Justice Department as to the jurisdiction of the gypsum industry, plus labor unions, plus the contractors, a firm which I headed. Now I am going to do the reverse of what you did, Jerry.

I am going to say I appreciate the support from, labor who supported my reappointment, but I am going to suggest to you that labor does have a tremendous power and clout of its own which is translated into political action. We were the first union contractors to ever go into Cook County with blacks. We spent a hell of a lot of time fighting in court afterwards, with the help of the Justice Department up to a certain point. We ultimately lost.

I can never prove it, but I am absolutely convinced that in some way, some how, we lost it for reasons other than the merits of the case. If you find a recalcitrant union in the construction field, and if you are a small contractor and trying to get started, you realize that the only way you are really going to make it is to make a deal, because the little guy does not get started in the bigtime construction field, unless he does since you have got to take those cost increases, those wage increases, whether you like it or not.

And if the job gets stalled for a year, and you are a subcontractor, you have had it. And let us not kid ourselves. While you say that political power of labor unions is in the field, it transcends such geo-

graphical limitations pretty rapidly, and I know in Cook County, because I have experienced it, and it is not nice.

Mr. COHEN. I think there is certainly—I am not going to use Cook County to prove my point, and I mean there are other areas of the country where you have had racketeering down in the unions, and there is no question about it, and you have had it, and this is one reason we passed the Griffin Act and some others, to try to get at that aspect of the labor and business.

But I think that is something different than the basic problem we are dealing with today. There is no question in terms of racketeering, in terms of this type of thing, in terms of some of the things that have gone on in the construction workers' industry, particularly, that no one is geared to, you know, to argue that they are good, or they are not bad things; sure. We all know that, but in terms of the general, the general basic problems we have in this country, I am suggesting that those kinds of problems can be dealt with much more easily in terms of compulsory arbitration techniques than can the problem of breaking up the economic power generally.

All I am suggesting is that we look at first things first.

Mr. Ross. But all I am saying to you is that when there is one segment of our society that is indispensable to the works of our economy, which is labor, and when that segment of society can own one or two or four, or more, Congressmen directly, it is just as much harm in that as the oil industry owning a Congressman or a Senator, and that is all I am saying.

I am just saying that when you vest the right to one segment to have such an important impact on the decisions of our economy, it is very, very important that we know that citizens know how that power is translated from economics or labor into politics, and political decisions.

Mr. CHUMBRIS. Mr. Chairman, when I made my statement earlier about who is the most powerful, government, labor, or business, and I said I thought you could take your choice, government or labor, and that business runs a bad third, it was because, in 15 years of hearings before this subcommittee, and you have been with it since 1959, which we would have witness after witness come before us repressing labor or industry or some other group.

I do not recall at any occasion, except once in the Newspaper Preservation Act, that labor was not united in its stand on any particular issue before our subcommittee.

Mr. COHEN. I will give you one: The Truth in Packaging bill.

Mr. CHUMBRIS. That was another one.

Mr. COHEN. You remember, the Glass Blowers Union.

Mr. CHUMBRIS. That is another. But that is a rare occasion. But as to industry, in the insurance hearings we would have one trade association for and another trade association against, and we would get into the automobile industry, and we had Romney coming in speaking for American Motors when he was president, and he took one position which was against what, perhaps, two of the other manufacturers would say. And maybe another manufacturer, took a little different viewpoint.

We had the packaging and labeling bill, Senator, before this subcommittee in 1960, and nobody gave you a snowball's chance in that hot place down below to getting it passed. Some of the press corps

said, "No," it is not going anywhere. But the consumers kept pressing, and consumer groups kept after it, and after it, and after it, until finally a law was passed.

But when we got that law, if you will remember, Mr. Chairman, it was bottled up in the Commerce Committee with a 9-to-9 vote, and that vote did not break until the Business Council to the President of the United States finally got together with a further compromise, and broke the stalemate of the 9-to-9, and the bill cleared the committee and was reported to the Senate.

Again you had a division in business which created the legislation in that case. That is why I say that business, as powerful as it is, still will have to contend with the power of government and the power of labor unions. And that is why I pose that question, and I think it is well that we take into serious consideration when we are talking about how to proceed with further legislation, or just further policy of government, to consider that balance of power.

Mr. GREEN. Just one comment on that.

Taking this industry-by-industry, not trade group-by-trade group, the auto industry, steel industry, more important in my mind is how often has one of the firms in the industry broken with one of its "competitors" and charged a lower price than the price which is set by parallel pricing.

Now, in 1962 when the administration tried to roll back the steel prices, Inland said it would not go, Inland would not go along, and the theory is it broke the united front of the steel industry, and it may well have. The interesting thing about that example is that it is so unique and singular.

George Romney was the rather feisty head of American Motors, contesting the assumption that they had to produce 4 million cars to be efficient, and anything else would not be efficient. My feeling is that on the issue that counts on pricing patterns, they are sufficiently concentrated that there is this fantastic parallel activity going on, and that they are not competing with each other in ideas or in price, but they are acting rather in an orchestrated parallel way, either by cue or conspiracy.

Mr. CHUMBRIS. Well, I want you to take what I said in relation to the fact that we are talking about whether business is so powerful that it can come to government and make government do what it wants. I was using that as my illustration. But on the question of parallel pricing, Senator Kefauver during the 1957 hearings that began February 5, 1957, on the problems created by the Suez Canal breakdown, Chairman Kefauver asked the presidents of several corporations, now, Mr. "X," why do you not lower your price of gasoline by 1 cent rather than raising it 1 cent, and the president of that corporation said, well, if I lower my price by 1 cent—then my competitors might be lowering it 1 cent or the competitors may lower 2 or more cents and we would be making a lesser profit. The low profit necessitated the price increase in the first place.

As a matter of fact, we have hearings on price wars and in Detroit when I was up there 3 or 4 months ago they were still charging 31 cents for gasoline that we have to pay 41 and 42 cents for here in Washington, D.C. That is what they did in Detroit, they went 2 or more cents below each other until they got to the destructive pricing point.

We have had hearings on that subject, and I do not see why we should discuss it further. I can discuss it further, but I think that was the basis of our administered prices hearings; why are prices equal? Why should one not be below the other? Some industries do that.

Mr. ENGLER. Mr. Chumbris, your formulation was a fascinating one, and I started to make a chart, which is not my style, and I will not subject you to it. But I began to think of issues that concern us deeply.

In the area of free speech, Jersey Standard does not bother me personally, although I have been told that the American Petroleum Institute has employed detectives and kept files on me. In the area of free speech I find myself more worried about the Federal Government and the FBI and military than I do about Jersey Standard. In the area of free speech, organized labor does not affect me personally.

In the area of foreign policy, I can see an interplay. It depends what issue we are talking about. As I suggested earlier, in the Middle East the country has viewed oil as a national security matter and the military security and the corporate apparatus have been intimately joined in policy formation.

I am delighted that Senator Hart said earlier that he is going to investigate this go ahead given by the Attorney General's office. I wrote two letters to Mr. McLaren as a citizen, and never received a reply. I had asked for the text of the OK that the oil industry cited giving them the right to go ahead and negotiate collectively.

Mr. GREEN. That was never made public.

Mr. ENGLER. Well, I have not even gotten a reply on the document. So, in the area of foreign policy, it is complicated. If we took another area of American foreign policy—Cuba, one could show how the oil industry played a fundamental role in determining our relationship to Castro's regime. But I would not want to say that it was simply the oil industry, for the United States did have the "menace of communism" 90 miles off the Miami coast, as an ideological and security preoccupation.

In the area you cite of oil prices and economics, I am fascinated by your illustration of the Suez crisis. The question was not what if one oil company lowered its prices, but why did all of the oil companies raise their prices during the Suez crisis. What happened there, Mr. Chumbris, was that the U.S. Government went to the heads of the major oil companies, as you well know, and said, we want you to activate the advisory machinery for shaping oil policy. This group views the United States and the world in an integrated fashion in terms of maintaining its international pricing mechanisms and controls.

So, American foreign policy in an economic area of price was turned over to the major oil companies, who at times met not even in Government offices, but at the offices of Jersey Standard in New York City. They worked on what they claimed was the fear of shortages of oil because of the Suez closing. What they did was jack up the price of oil and adjust worldwide supply and distribution to meet their own foreign objectives.

Meanwhile, small oil men in this country shouted to high heavens that we have 8,000 wells unconnected to pipelines in Texas. There is plenty of oil, and why are you raising the prices? And the oil industry, to whom responsibility was given for the emergency in the Suez crisis, functioned as the Government of the United States with

the leaders off the major oil companies acting under the authority of the President of the United States, with the clearance of the U.S. Attorney General, one to milk the consumers of the United States, to perpetrate this sizeable hoax, and to strengthen world patterns for profitmaking, all under the guise of national security.

So, you know, I want to look in different areas. I can think of areas, obviously, where government is more powerful.

Mr. CHUMBRIS. What you just related was the major focus of our hearings. When I used the price of reducing 1 cent for gas, I was answering Mark's question about "show where there has been an attempt," you know, in parallel prices. That is the only reason I used that illustration of Kefauver's question. But the major focus of the 1957 hearings was on the point that you have raised, about the 19 companies that were permitted to act as a group under the Defense Production Act of 1955. The Congress gave that authority for these people to get together.

We had witnesses from the Interior and ODM, the Justice Department, to testify on the hearing.

Mr. ENGLER. When Senator Kefauver asked, the Assistant Secretary of the Interior why didn't the U.S. Government speak up when the oil companies raised prices he said, "Well, that was an area for private enterprise."

Mr. CHUMBRIS. I think you quoted him probably pretty correctly.

Senator HART. You have all been very generous with your time, and I am sure that all of us who have had the opportunity to hear, and particularly to participate, are better off for it.

Just to bring things down from the establishment of goals, and the design of an instrument which would lessen economic concentration—I must run off now, because, beginning at 12:30 noon, the mayor of Detroit has been waiting to talk to me about his problems. And it just shows how well intentioned congressional actions can sometimes run into problems. It would not necessarily be solved even if we understood our ultimate goal.

The Congress finally, and not in a sufficient amount, established an emergency employment program last year to take some of those who are unemployed and put them to work, principally in municipal employment, to do jobs, and everyone agreed that needed to be done.

Detroit, like other cities, now finds that its revenues are so reduced that it must lay off a substantial number of its regular municipal employees? Should we permit them to use the funds for emergency employment to continue the regular municipal employees? If you were the regular municipal employee, you would think it idiotic to lay him off at a higher sum, and also if you were unemployed you would think that that is what the Congress intended.

Now, that is the discussion that I am 45 minutes late for, and I was sitting here wondering what position I should take, and I still do not know.

Mr. CHUMBRIS. Why don't you just stay here and you will not have to take a position.

Mr. COHEN. Just tell them that you cannot be bothered, that you are dealing with bigger issues today.

Mr. CHUMBRIS. We could talk a couple of hours more.

Senator HART. Thank you very much.

(Whereupon, at 1:10 p.m., the subcommittee adjourned.)

TESTIMONY OF THE MOST REVEREND JOHN J. DOUGHERTY, D.D., CHAIRMAN, COMMITTEE FOR INTERNATIONAL AFFAIRS, UNITED STATES CATHOLIC CONFERENCE

I am Bishop John J. Dougherty, Chairman of the Committee for International Affairs of the United States Catholic Conference (USCC). The USCC is an agency of the Catholic Bishops of the United States. Its purpose is to coordinate activities of Catholics in the United States in the areas of education, social welfare, international affairs, communication and health affairs.

I

A major theme, pertinent to the current Congressional review, recurs in official modern Catholic social thought, especially as expressed in papal and conciliar writings. It deals with the concentration of economic power resulting from the free enterprise system and the impact of this concentration on international relations.

In 1931, Pope Pius XI, writing in his encyclical *On Reconstructing the Social Order*, noted that "free enterprise has destroyed itself," and it has been replaced by an "international imperialism whose country is where profit is."¹

In the encyclical, in which he updated Catholic social teaching initially stated by Pope Leo XIII in 1891 (*The Condition of Labor*) the Pope elaborated on such issues as private property, just wages and socialism. His conclusions about the state of the world's economic affairs are most remarkable: the system of free competition was incapable of either controlling itself or of directing economic life; and, in the final analysis, the system was self-destructive.² To support his position, Pius XI offered what he called "an unanswerable argument . . . the immense multitude of non-owning workers on the one hand and the enormous riches of certain very wealthy men on the other," despite the system's capability to produce goods in abundance.³

Pius XI characterized the free-market economy as a struggle between private business competitors, which, "of its own nature," produced a concentration of massive power and financial wealth in the hands of a few, an "economic dictatorship [which] regulated the flow of the entire economic system."⁴

The consequences of this economic struggle, according to Pius XI were enormous. Not only was there a class struggle between "the few exceedingly rich and the unnumbered propertyless,"⁵ but also the giant private enterprises bitterly fought each other, striving "to gain supremacy over the nation [and] generating conflicts between nations,"⁶ finally creating an "international imperialism whose country is where profit is."⁷

Pius XI acknowledged that important changes in the social order had occurred in the forty years intervening since Leo XIII's encyclical in 1891. However, in an era marked by a number of great upheavals in the Western world, the Pontiff focused on "the 'capitalist' economic regime [which] has spread everywhere [and] has invaded and pervaded the economic and social life of even those outside its orbit. . . ."⁸

II

The world of Pius XI is separated from the present by a span of forty years. However, recent papal and conciliar documents suggest that the institutional Catholic Church still considers his observations regarding the impact of the free-market economy as valid.

Vatican II's *Church in the Modern World* echoed Pius XI's observation, noting that "while an enormous mass of people still lack the absolute necessities of life, some, even in less advanced countries, live sumptuously or squander wealth."⁹ The bishops stated that "the fundamental purpose of [technical programs] must not be the mere multiplication of products. It must not be profit or domination. Rather it must be the service of all men."¹⁰ And further on, they noted: "The

¹ *On Reconstructing the Social Order*, n. 109.

² *Ibid.*, n. 88.

³ *Ibid.*, n. 60.

⁴ *Ibid.*, nn. 105-106.

⁵ *Ibid.*, n. 58.

⁶ *Ibid.*, n. 109.

⁷ *Ibid.*, n. 109.

⁸ *Ibid.*, n. 102.

⁹ *Church in the Modern World*, n. 63.

¹⁰ *Ibid.*, n. 64.

developing nations will be unable to procure the necessary material assistance unless the practices of the modern business world undergo a profound change."¹¹

In *The Development of Peoples*, Pope Paul VI suggested the profundity of the changes demanded when he concluded, in 1967, that the present economy is "the source of excessive suffering, injustice and fratricidal conflicts,"¹² and is so intransigent that the situation "demands bold transformations, innovations that go deep."¹³

History has shown that Pius XI's conclusion that the free enterprise system had died was premature. He seriously underestimated the tenacity of business enterprises in the free-market system and that system's capacity for survival and proliferation. It has obviously survived the Great Depression.

In his Apostolic Letter to Cardinal Roy in May of 1971, Paul VI acknowledged a new mutation in this global economic system—the multinational corporation. This new economic power, the Pope warns, "can conduct autonomous strategies which are largely independent of the national political powers . . . not subject to control from the point of view of the common good." "These private organizations," the Pope states, "can lead a new and abusive form of economic domination," an aberration with "excessive concentration of means and powers that Pope Pius XI already condemned on the fortieth anniversary of *The Condition of Labor*."¹⁴

III

Clearly, the United States is an economic giant in the world today. U.S. investors control 60% of the world's total direct foreign investment (some \$54 billion), a greater percentage than that of Great Britain at her prime in the late nineteenth century.¹⁵ Fifty percent of the direct foreign investments in all the nations of the Third World is U.S. capital. The enormous U.S. penetration of the developed nations' markets is evident in that Americans own 70% of all the foreign investments in Great Britain, almost 50% in France, and a third in West Germany.¹⁶

When Pius XI wrote his encyclical in 1931, U.S. overseas investments amounted to about \$8 billion, whereas, by the end of the decade of the Sixties, they exceeded \$60 billion.¹⁷ The Pope's remarks about the "accursed internationalism of finance—international imperialism whose country is where profit is"—predated the present-day phenomenon of the multinational corporation. The year before the outbreak of World War I, U.S. corporations owned less than 120 foreign manufacturing subsidiaries; by 1967, the number had increased to more than 3,600.¹⁸ Concentration of financial power is documented by Professor Raymond Vernon's studies showing that about 200 giant U.S. parent corporations with extensive overseas investments dominate international commerce.

U.S. penetration into foreign nations is also strikingly evident in the field of banking. From 1930 through 1950, the number of U.S. banks with overseas branches was about one hundred, with one half of them in Latin America. By 1967, this number had increased to almost three hundred branches, and more than seventy percent of the branches are in the Third World.¹⁹ Three American banks own eighty percent of U.S. overseas branch banks.²⁰

George Moore, former president of First National City Bank, described this network of international finance as a phenomenon "unprecedented since the emergence of the nation-state," and one in which U.S. banking interests play "the same relative role in international finance that the British financial institutions played in the nineteenth century."²¹ The dominant power in world finance which Pius XI had characterized as "despotic economic dictatorship,"²² was that of Great Britain, which persisted well into the twentieth century.

¹¹ *Ibid.*, n. 85.

¹² *The Development of Peoples*, n. 26.

¹³ *Ibid.*, n. 32.

¹⁴ *A Call to Action*, n. 44.

¹⁵ Raymond Vernon, "Multinational Enterprise and National Security," (London: The Institute for Strategic Studies, 1971), p. 21.

¹⁶ Christopher Layton, "Trans-Atlantic Investments," (Boulogne-sur-Seine, France: The Atlantic Institute, 1966), p. 13.

¹⁷ David Horowitz, *Corporations and the Cold War*, (New York: Monthly Review Press, 1969), n. 17.

¹⁸ Vernon, *op. cit.*, p. 25.

¹⁹ Harry Magoff, *The Age of Imperialism*, (New York: Monthly Review Press, 1966), p. 75.

²⁰ *Ibid.*, n. 73.

²¹ George S. Moore, "International Growth: Challenge to U.S. Banks," *The National Banking Review*, September, 1963, p. 6.

²² *On Reconstructing the Social Order*, n. 105.

A consequence of world dominance in economic affairs, in Pius XI's view, is intervention by the powerful party in the political and financial affairs of other nations.²³ Secretary of State William P. Rogers provided stark testimony of the Pope's thesis in his remarks to the 1971 graduating class of Colgate University, when he described U.S. involvement in the world: "We [Americans] have treaties involving mutual security with 42 nations; we have invested abroad some \$120 billion, and this amount is growing. We hold such a central position in international trade and economic matters that we must necessarily be increasingly involved in the affairs of the world."

IV

Pius XI's apt description of the "accumulation of might and of power which seeks to decide political controversies through the use of economic supremacy and strength" is, regrettably, still relevant.²⁴

However, to examine international economic development over the last half century is not to attempt to brand as "evil" the process of industrialization, that is, the systems by which natural resources and energies are harnessed for the good of mankind. Rather, it is to call into question the dominant economic system.

Pope Paul was explicit on this issue in his encyclical *The Development of Peoples*, when he said that [although] it is true that a type of capitalism has been the source of excessive suffering, injustices and fratricidal conflicts whose effects still persist, it would also be wrong to attribute to industrialization itself evils that belong to the woeful [economic] system which accompanied it.²⁵

The sovereignty over natural resources and the phenomenon of multinational corporations appear to be two sides of the same coin. Developing nations are deeply concerned to retain the benefits for their own people of the natural resources which are situated within their territories. However, they lack the financial means needed to develop, and market, those resources for their own benefit. Therefore they look to foreign investors for the needed capital, and, indeed, for the know-how, such as management skills, that is currently spoken of as the transfer of technology.

Unfortunately, there is as yet no international regulation of corporate activity, even as limited in extent as the Administrative Law provisions enacted under the Interstate Commerce clause of the United States Constitution. Contracts between United States investors and foreign enterprises are subject to traditional freedom of contract principles in the negotiation process. This freedom prevails through private or nongovernmental agreements as fully as it does on the intergovernmental level in the negotiation of bilateral treaties, which, in theory, involve a *quid pro quo*.

However, it is now beginning to be realized that, like the situation that prevailed at the turn of the century in the labor market, unequal bargaining power exists between developed and developing countries, and that sometimes coercive measures, involving the threat or use of force, are adopted in insisting upon observance of solemn agreements between states, and as guarantees for the performance of business contracts as well. The national corporations, which are nongovernmental in accountability, but which enjoy governmental protection through the corporation articles in the modern type of treaties of commerce, are quick to call for government intervention, whether it be fishing, or mining, or oil flows, or even tariff disadvantages in the claims that are involved.

Because of the need of capital for investment everywhere, and because United States corporations, by frequently putting the profit motive uppermost in behalf of their stockholders, seem to have the surplus savings desired for investment abroad more readily available: it is the United States nationals which more often than not appear to benefit from the protection afforded by the treaty clauses, although the treaties are in fact reciprocal in form.

With the development of modern stock-ownership in corporations, the notion has arisen that the chief duty of the directors is not so much a fair price over costs for consumers, as whatever the market of supply and demand will bear. The main task is to make a profit for the stockholders as investors of savings. This has given to profit-taking a rather impersonal character. Success and failure is now stated in the mechanical terms of percentage of returns on investment. Furthermore, in theory, governments are sustained by the taxes

²³ *Ibid.*, n. 108.

²⁴ *On Reconstructing the Social Order*, n. 108.

²⁵ *The Development of Peoples*, n. 26.

on the profit-taking, and therefore are considered successful to the extent their business enterprises show profits and yield revenue. It is profit-taking, rather than the distribution of profits which constitutes the modern criterion of prosperity, and wide distribution of shares of stock as evidence of ownership is acclaimed as an effort of multiplying stockholders.

However, the theory does not quite fit the facts. Although the state laws under which most corporations are organized identify ownership with control, the fact is that the owners of the stock of large corporations buy and retain their shares on the basis of skillful management, and have in fact little influence over management decisions. In general, stockholders in big corporations lack control, and therefore avoid any sense of moral responsibility for the conduct of affairs of the enterprise, as was pointed out in Pope Pius XI's encyclical of 1931.

Furthermore, United States corporations have been fairly successful in persuading the Federal Government to negotiate treaties designed to avoid double taxation on profits taken in the country of incorporation as well as in the country where the business is carried on. Increasingly it is becoming the practice, however, for the foreign country to insist on restrictions against the export of currency, and to require the reinvestment of profits to a greater or less degree in enterprises within the country where the profit has been earned.

Although multinational corporations are largely associated with United States enterprises at present, because of the very obvious presence of American factories in the industrial centers of Europe and Canada, it would not be correct to identify them with the United States alone. The United Kingdom has made such investments throughout the world for many years, and even today is a large landholder in the United States as well as in Canada. There is a fear at present in such capitals as Bonn that the cartels, which flourished in Germany before World War II in such a way that they were practically more powerful than any government, may again tend toward domination of the international economy. Such legal devices as patent laws and licensing, which were an important factor in the cartelization of pharmaceuticals (as the records of the Alien Property Custodian show) must be brought under international legislative controls, especially in such problems as the transfer of technology to the developing countries, but without interfering unduly with internal affairs of sovereignty over natural resources.

Disputes between the United States Government and foreign powers laying claim to natural resources, such as copper and oil, underlying land whose title had passed to United States corporations, constitutes an unfinished chapter in the history of American foreign relations. The situation in Mexico shortly before the start of World War II is set forth as succinctly as possible in William W. Bishop's Casebook on International Law, 3d edition, page 851, as well as in Judge Hackworth's *Digest of International Law*, III, 655-665. An earlier development concerns the so-called Calvo clause, customarily inserted in non-governmental contracts, in which the American party agrees not to call on his government for good offices in the event that the contract might be breached. (This situation is described in the Bishop book at page 811.) The frequent news notes in the daily press recording seizure of American tuna boats by Peru, etc., within the disputed 200-mile zone off her shore, and the reimbursement to the ship owners by the U.S. Government of fines levied, are the most recent indications of the conflicts over the natural resources of foreign countries and the claims to property rights of American business ventures which remain unsettled between the governments.

Repeated actions taken at the United Nations with respect to control over natural resources, and the further debates anticipated in UNCTAD over investment in the natural resources of developing countries, suggest that the disputes are likely to increase rather than disappear pending agreement on international legal institutions designed to prevent hostilities from gaining ground. Unless and until some international law provisions are devised to regulate investment in natural resources across state lines, in a controlled and equitable manner for all concerned, the prospects for the peaceful development of natural resources by foreign capital in the newest form of multinational corporations appear remote.²⁶

²⁶ Dr. Miriam T. Rooney, "Investment Through Multinational Corporations in the National Resources of Developing Countries," (unpublished, 1972). (The basis of the major portion of Part IV)

The recent Roman Synod of Catholic Bishops, cognizant of this question, called for a re-balancing of power relationships between the developed and less developed nations. It specifically noted that the "recent *de facto* exclusion [of the less developed countries] from discussions on world trade and also the monetary arrangements which vitally affect their destiny are in example of power which is inadmissible in a just and responsible world order."²⁷

The need, then, for some kind of international regulatory body to monitor multinational corporations is receiving the attention of men like Robert Sarnoff, Jr., of RCA and Bishop Alexander Carter of Canada.²⁸ Carter calls for the creation of an international authority representing both capitalists and socialist nations to draw up a code of international conduct with a review board to which the less powerful nations can register their complaints.²⁹

Underlying this consideration of some of the consequences of the concentration of economic power is the sincere hope that institutions and systems and technologies not be diverted to the seeking of profit and the maintenance of domination, but rather that they be dedicated to the human development of all men on the planet.

²⁷ Synod of Bishops, "Justice in the World," p. 23.

²⁸ Robert Sarnoff, Jr., Address in Leige, Belgium, May 17, 1971.

²⁹ Bishop Alexander Carter, "The Problems Which Sovereign Super-States and Multi-National Corporations Present to the Building of a World Community" (address at Roman Synod of Bishops, 1971).



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